

McGRAW-HILL INSURANCE SERIES  
RALPH H. BLANCHARD, EDITOR

ADJUSTMENT OF FIRE LOSSES

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# ADJUSTMENT OF FIRE LOSSES

BY

PRENTISS B. REED

*Assistant Manager, Phoenix Assurance Company, Ltd.*

FIRST EDITION  
FIFTH IMPRESSION

McGRAW-HILL BOOK COMPANY, INC.

NEW YORK AND LONDON

1929

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PRINTED IN THE UNITED STATES OF AMERICA

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THE MAPLE PRESS COMPANY, YORK, PA.

## PREFACE

In this book I have tried to present a comprehensive account of the adjuster's work and the methods he should ordinarily follow in order to make proper adjustments. There is nothing new in the book, nothing which the veteran adjuster will not recognize when he sees it. There is, however, presented for the first time in a single volume an account of what should be done from the time the adjuster receives the order to adjust a loss until an adjustment is made, and possibly until subrogation proceedings are instituted and completed, or until a claim is defeated either by the adjuster's demonstration of its invalidity or by the judgment of a court.

For the benefit of loss department employees and others who may be interested in the subject, there have been described the final papers which should under ordinary circumstances be in hand at the completion of an adjustment on each of the several kinds of property or rights commonly insured.

The book had its beginning in a set of working papers which were developed nearly twenty years ago in one of my early struggles with a mercantile loss. In 1916 I prepared articles based on these working papers and published them in the Insurance Field. After moving to New York City in 1918, I became interested in the work of the Insurance Society and for three years conducted the loss lectures before the senior class. It was suggested that the lectures be put in written form and, on giving the matter some thought, I decided to undertake the book as it now appears.

As I have sought to prepare a very practical manual, there have been omitted, as far as possible, discussions of the insurance contract or the court decisions construing it. While some discussion has, of course, been necessary, the insurance contract should be studied in the law texts and the decisions. I have also sought to avoid controversial subjects.

There are thoughts in the book reflecting the teaching of Joseph J. Windle with whom I was once associated and from whom I learned much. To him as well as to Edmund Pettus Roberts, William N. Bament, Allen E. Clough, and the late George Grigg Adams, I am indebted for help in my education in loss work.

I must note my appreciation for help received in the preparation of the book from Roy A. Sellery, who put at my disposal the bulletins of the Western Adjustment and Inspection Company of which he is General Manager. I also received great assistance from Alexander Grant and Milo B. Hopkins of Alexander Grant & Company, Certified Public Accountants. The chapter on Stocks of Merchandise was thoroughly revised with their help. I am indebted to J. H. Burlingame, Jr., of the Cincinnati office of the Western Adjustment and Inspection Company, for help on the chapter covering use and occupancy losses. L. B. Hazzard of New York and J. B. Hines of Houston favored me with a number of exhibits. Robert P. Barbour, U. S. Manager of the Northern Assurance Company, very kindly authorized me to use any material to be found in his most excellent book, "The Agent's Key to Fire Insurance," which is a text used in the scholarship course now being given at Columbia University. Except for the assistance of Harold H. Bowman, Esq., of the New York bar, the manuscript would never have been completed.

Finally, I must express my thanks to Miss Mabel B. Swerig, Librarian of the Insurance Society of New York, who purged the manuscript of many errors and ambiguities.

PRENTISS B. REED

NEW YORK, N. Y.

August, 1929.

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# ADJUSTMENT OF FIRE LOSSES

## CHAPTER I

### INTRODUCTORY

The Insurance Contract.—The insurance contract embodied in the several standard fire policies of the present day is a conditional agreement to indemnify the insured for direct loss or damage by fire to the property described. Though the policies differ somewhat in their language and arrangement, they all contain similar stipulations. These provide, among other things, that loss due to certain hazards shall not be covered, and that certain circumstances shall avoid the contract. Liability for loss is limited, in case of other insurance, to the proportion which the amount insured bears to the whole insurance. Some of the policies provide that they shall be void *when* certain conditions come into existence; others, that they shall not cover loss occurring *while* the conditions are in existence. The stipulations in one form or another had almost all evolved prior to 1886, when the State of New York adopted a standard policy. The latest revision of the fire-insurance contract is the present New York standard policy, adopted in 1918.

✓ Procedure in Case of Loss.—Under the insurance contract the insured is required to give notice of loss and to make claim. On receiving notice the insurer usually makes inquiry into the facts and circumstances attending the fire, and commences negotiations with the insured to determine the amount of its liability. If these negotiations result in an agreement fixing the amount to be paid, the insured and the insurer are said to have made an *adjustment*.

✓ Object of the Adjustment.—An adjustment should be an accurate determination of the amount which the insured is entitled to receive under the conditions of his policy. To make

such a determination, the insurer and the insured must fix the amount of loss to the property, and also the proportion of the loss which is collectible under the policy. The amount of loss to the property may be fixed either by agreement or by *appraisal*.

**Insurable Interest.** - Any person who has an insurable interest in property may insure his interest. If, therefore, a person whose interest is less than that of unconditional and sole ownership is insured under a properly written policy, it will be necessary in case of loss to determine the nature and extent of this interest, as well as the amount of loss to the property. In some cases the insured will be entitled to collect the full amount of the loss to the property; in others, the extent of his interest will be less than this amount, and will, therefore, operate to limit his collection. Separate insurable interests in the same property arise in connection with such relations as those of vendor and vendee, lessor and lessee, bailor and bailee, and mortgagor and mortgagee.

**Parties to the Adjustment.**—The parties to an adjustment and the parties to the contract of insurance under which the adjustment is made are the same - the insured and the insurer. The insured conducts the negotiations and performs the duties which lead up to the completed adjustment, either in person or through a representative. In the cities the insured is often represented in adjustments by *brokers* or *public adjusters*. The insurer's representative may be an agent or an employee. In dealing with a serious loss the insurer generally selects as its representative a person experienced in making adjustments, known as an *adjuster*.

**The Function of the Adjuster.**—The adjuster is the representative of the insurer, hereafter to be known as the company, for the purpose of adjusting losses. In order that he may carry out this purpose he is empowered by the company to act for it, and to make agreements on its behalf. Agreements made between the insured and the adjuster covering matters within the scope of the adjuster's authority are binding on the company. The stipulations of the policy contract largely determine the acts of the adjuster and the agreements he may make with the insured in performing his duties. These stipulations, considered in the general order followed in the present New York standard policy, will indicate what the policy contract requires of the adjuster.

The adjuster must:

1. ✓ Deal with the person, association, or corporation named as insured, or with the legal representatives of the insured, and determine the nature and extent of the insured's interest in the property.
2. ✓ Determine the actual cash value of the property at the time of loss, and the amount of loss or damage sustained.
  - (a) To be ascertained with proper deductions for depreciation.
  - (b) Not to exceed the amount it would cost to repair or replace with material of like kind and quality within a reasonable time after loss and damage.
  - (c) To be ascertained without allowance for any increased cost of repair or reconstruction by reason of any ordinance or law regulating construction or repair.
  - (d) To be ascertained without compensation for loss resulting from interruption of business or manufacture.
3. ✓ Determine whether the loss occurred after the commencement and, before the expiration of the term of the policy.
4. ✓ Determine whether the loss or damage was the direct result of fire, or of removal from premises endangered by fire.
5. ✓ Ascertain whether the property was located and contained as described in the policy, or had been necessarily removed to some proper place or places for preservation from fire within 5 days prior to loss.
6. ✓ Ascertain whether the property lost or damaged is that described in the policy.
7. ✓ Ascertain whether the insured has concealed or misrepresented any material fact or circumstance concerning the insurance or the subject thereof, or has been guilty of fraud or false swearing, either before or after the loss.
8. Exclude from the claim uninsurable property, or excepted property that is not specifically named in the policy.
9. ✓ Ascertain whether the loss was caused by:
  - (a) Invasion, insurrection, riot, civil war, or commotion, military or usurped power.
  - (b) Theft.
  - (c) Neglect of the insured to use all reasonable means to save and preserve the property at and after a fire, or when endangered by fire in neighboring premises. (Theft or neglect may be responsible for part of a loss, the rest of which is collectible.)
  - (d) Explosion or lightning, unless fire ensued, in which event only the loss or damage caused by fire shall be considered. (Except when lightning clause is attached.)
10. Ascertain whether the policy has become void because, without written agreement to the contrary.
  - (a) The interest of the insured is other than unconditional and sole ownership.

## ADJUSTMENT OF FIRE LOSSES

- (b) The subject of insurance is a building on ground not owned by the insured in fee simple.
  - (c) With the knowledge of the insured, foreclosure proceedings have been commenced, or notice given of sale of any property described in the policy by reason of any mortgage or trust deed.
  - (d) A change, other than by the death of the insured, has taken place in the interest, title or possession of the subject of insurance (except change of occupants without increase of hazard).
  - (e) The policy had been assigned before the loss.
11. Ascertain whether, unless otherwise provided by written agreement on the policy, the loss occurred while
- (a) The insured had another contract of insurance, valid or not, on property covered in whole or in part by the policy.
  - (b) The hazard was increased by means within the control or knowledge of the insured.
  - (c) Mechanics were employed in building, altering, or repairing the described premises beyond a period of 15 days.
  - (d) Illuminating gas or vapor was being generated on the premises; or (any usage or custom to the contrary notwithstanding) there was kept, used, or allowed on the premises fireworks, greek fire, phosphorus, explosives, benzine, gasoline, naphtha, or any other petroleum product of greater inflammability than kerosene oil, gunpowder exceeding 25 pounds, or kerosene oil exceeding 5 barrels.
  - (e) The subject of insurance, if a manufacturing establishment, was being operated in whole or in part between the hours of 10 p.m. and 5 a.m., or had ceased operating beyond a period of 10 days.
  - (f) A described building, whether intended for occupancy by owner or tenant, was vacant or unoccupied beyond a period of 10 days.
12. See that, unless otherwise provided by written agreement on the policy, personal property, which was at the time of loss encumbered by a chattel mortgage, is excluded from the claim.
13. See that no building or a material part thereof, described as insured or containing insured property, has fallen, except as the result of fire.
14. Fix the extent of the application of the insurance and the contribution to be made by the company in case of loss.
15. Investigate any dispute over the cancellation of the policy.
16. Consider the interest of any mortgagee named as payee in the policy, and the action which should be taken by the company if the policy is void as to the insured, but valid as to the mortgagee.

17. Enforce such requirements as may be necessary to bring about a proper adjustment, or to prove that no liability exists.
18. Exercise the options to take articles of personal property at their adjusted value, or to repair, rebuild, or replace damaged or destroyed property, if by so doing the company's loss will be reduced.
19. Establish any right of recovery from third parties for the loss.

The adjuster's position as an employee of the company imposes on him certain other duties. These include reporting to the company any facts or circumstances which come to his attention that may aid the company in escaping future losses, or in making an advantageous selection of risks.

✓ **The Three General Classes of Losses.**—Losses under fire insurance policies may be grouped into three classes according to kind of property or interest insured:

1. Building and structures.
2. Personal property.
3. Rights of possession.

Many losses on buildings and structures will include items of machinery and equipment which, under different conditions of ownership, would be personal property. Personal property, from the standpoint of the adjuster, may be grouped into two classes: that which is kept for use and that which is kept for sale—the latter group comprising all of the various stocks of merchandise. Losses on rights of possession include those under policies insuring *rents or rental value, use and occupancy, and leasehold interests*.

Regardless of size or complexity, the adjuster follows the same general line of action in adjusting all losses of the same class. When dealing with property that has not been destroyed, or damaged too badly to be identified, he will seek to determine by means of an estimate, inventory, or statement, which he will check against the property itself, what was its cash value immediately preceding the fire, and what amount of loss or damage it has suffered. But when property has been obliterated, or damaged beyond the possibility of identification, the adjuster determines what was its condition and value before the fire, by making an examination of records, or by taking the testimony of competent witnesses.

**Agencies of Adjustment.**—Losses of less than one hundred dollars are frequently adjusted by local agents, and in some cases local agents of experience and competence are also entrusted with the adjustment of larger losses. These, however, are ordinarily adjusted by state or special agents, salaried staff adjusters, adjustment bureaus, or independent adjusters.

**Salaried Company Employees.**—A number of losses are adjusted by state and special agents, who, prior to the formation of adjustment bureaus, devoted a considerable amount of time and energy to adjustment work. In the larger cities a number of companies maintain salaried staff adjusters who devote their attention exclusively to adjustment work. Immediately after the ending of the World War there was quite an increase in the number of such adjusters, but at the present time there is a tendency to discontinue their use, except in the very largest cities. Some state and special agents and some staff adjusters are expected to pay the losses referred to them after making the adjustments, doing so by issuing drafts on the company. The authority granted to these company employees is quite broad.

**Independent Adjusters.** There are a great number of independent men engaged in the work of adjusting. They are paid a fee for each loss they adjust. Some of these operate as individuals, other as members or employees of an organization. A number of independent adjusters may organize an adjustment company, and function in the same fashion as a company adjustment bureau. The authority commonly granted to the independent adjuster is more limited than that granted to the direct employee of the company.

**Company Bureaus.**—The first organization of the company-bureau type was the Western Adjustment and Inspection Company, which was organized in Chicago some forty years ago. At present the other bureaus are the General Adjustment Bureau, which handles the northeastern section of the United States; the Southern Adjustment Bureau, handling the southeastern states; the Underwriters Adjusting Company, which operates in the same territory as the Western; The Texas Adjustment Bureau, operating in the State of Texas; and the Pacific Coast Adjustment Bureau, handling the Pacific Coast. Bureaus are the development of cooperative effort, and are intended to furnish



the service of competent adjusters at a minimum cost by effecting the economies of cooperative effort. Their services are also on a fee basis. The bureaus maintain branch offices in the larger cities, each usually headed by a salaried manager and staff, the size of which depends on the amount of work ordinarily received at the branch office. In some of the smaller cities a single staff adjuster is able to care for the work. The bureaus have been reasonably successful in their operation, and are generally well supported by the companies.

✓ **Committees.**—Some twenty years ago the New York Board of Fire Underwriters organized its Committee on Losses and Adjustments. This committee was originally empowered to handle losses in which more than three members of the Board were interested, and has in late years extended its jurisdiction to include losses in storage warehouses and in the premises of apparel contractors, and also losses resulting from fires of questionable origin. The Committee employs the services of such salaried company adjusters as have been approved by a vote of the members, and such independents as have been approved in like fashion, and have also been designated by particular companies as being preferred. In one particular the Loss Committee of the New York Board of Fire Underwriters has been the most effective of all the adjustment organizations. Under its method of operation no company can act independently after once agreeing to act with the Committee. This method results in the companies maintaining a united front, and only acting according to majority rule. On January 1, 1926, the Cook County Loss Adjustment Bureau commenced operations in Chicago. This Bureau not only uses independent adjusters, but also avails itself of the services of men who are connected with the Western Adjustment and Inspection Company and the Underwriters Adjusting Company, maintaining in addition several staff adjusters of its own.

**Salvors.**—In many losses involving stocks of merchandise the adjustment is made under the company's option to take the property by paying the insured its sound value. Afterwards, the representative of the company sells the damaged merchandise for the company's account. Such an operation is spoken of as *salvaging*. The operation is frequently modified in its details

so that the stock is sold *for account of the loss* before the company makes payment, the proceeds of the sale going to the insured who then collects from the company the balance due him. The work of handling salvage is carried on by a number of independent individuals and firms, and also by the Underwriters Salvage Company, which is an organization owned and operated by the insurance companies. The growth of the Underwriters Salvage Company has been steady, and its organization now covers most parts of the United States quite thoroughly. The Salvage Company was established to inventory, remove, recondition and sell practically all classes of merchandise, and maintains well-organized plants at various points for the reconditioning and handling of damaged merchandise.

## CHAPTER II

### PROCEDURE

**General.**—While in its essentials the procedure followed in the adjustment of losses is the same everywhere, there are many variations in its details and order in different sections of the country, and even in different localities in the same sections. The purpose of an adjustment is to determine the amount for which the company is liable under its policy. The procedure, therefore, which will carry out this purpose will include a statement by the insured of what he claims, and an examination of this statement by the adjuster. The examination may satisfy the adjuster that he should approve or reject the claim, or that he should criticize it and attempt to reduce it, in which event he may gather and present evidence to support his criticism. Thus there is a marked similarity between adjusting a loss and trying a law suit. The differences in the procedure followed in different states for adjusting losses are the natural results of different state laws, customs, and local conditions. To some extent the differing forms of policies influenced adjusting procedure in the early days. In any section or locality it is necessary to vary procedure to suit individual losses. Property, claimants, and conditions will differ somewhat in each instance, so that the procedure which in one case will result in a proper adjustment with a minimum of friction and delay, will in another case result disastrously. In every loss there is the problem of property and the human relation. In some losses it will be easy to determine the value of the property and the amount of loss, while in others it will be difficult. In the majority of losses the claimants will be honest and reasonable, but in some they will attempt to perpetrate fraud, or will contend for excessive or improper claims. In each case the conditions and personalities to be dealt with will determine the detail and manner of the procedure, which must therefore be flexible so that it can be adapted to any problem which may come to hand.

If the procedure hereafter outlined is followed, it will ordinarily enable the adjuster to complete his task without overlooking matters which, if later brought to light, may embarrass him. The order of the steps is not important, and may be changed to suit the occasion.

The adjuster should:

1. Inspect the scene of the loss and examine any of the insured property still to be seen.
2. Confer with the insured or his representative.
3. Examine and list the policies.
  - (a) Alphabetically by names of companies
  - (b) With notation of agents' names.
  - (c) Noting varying forms and clauses.
4. Record:
  - (a) The exact name of the insured, and the names of individuals who may be members of the firm, officers of the corporation, or the individuals comprising the group.
  - (b) The date, hour, and cause of the fire as stated by the insured.
  - (c) The adjuster's theory of origin if he disagrees with the insured's statement.
  - (d) The nature of the insured's title to or interest in the property.
  - (e) Any change that may have occurred in the title or interest since the commencement of the policy.
  - (f) All incumbrances on the property (these should be recorded by stating the name of the holder, the amount of the incumbrance, and the date it is due).
5. Approve, direct, or institute any work necessary to protect the property from further damage.
6. Determine whether the company is liable for the loss, and if so,
7. Prepare to discuss value and loss by
  - (a) Estimating.
  - (b) Inventorying.
  - (c) Checking.
8. Negotiate the adjustment.
  - (a) Agree on value and loss.
  - (b) Apply any limitation clauses and apportion the loss.
9. Prepare final papers and secure execution of the proof of loss, unless this is to be looked after by the insured or his representative.
10. Mail promptly to the company the final papers and report.

The discussion of what the adjuster should do when he finds that the loss can probably be recovered from some third party, as in case of fire started by sparks from a locomotive, appears in the sections dealing with subrogation.

**Inspection of the Loss.**—The adjuster in sole charge of a loss should inspect the property involved and the scene of the fire. This is essential. When several adjusters are interested in the same loss, inspection can properly be delegated to one or to a committee. Ordinarily the property remains where it was injured, but occasionally it is moved before the adjuster's arrival. In the first case a single inspection suffices; in the second, two are necessary.

Inspection immediately acquaints the adjuster with the property and its condition, the nature and extent of the injury it has suffered, and the possibility of preventing further loss. It may enable him to determine the cause of the fire. Thus charred woodwork immediately above the smoke pipe connecting a furnace with its chimney is generally indicative of lack of sufficient clearance between the pipe and the woodwork, or of serious overcrowding of the furnace. Inspection will also bring to the adjuster's attention objects in the debris which can later be discussed to advantage with the claimant. If, for instance, the iron head and frame of a sewing machine are lying in the ruins of a dwelling, the adjuster will expect the claim on the contents to include a machine. On the other hand if the adjuster sees the worm and kettle of an illicit still, and quantities of cans, barrel hoops, or broken glass in the wreckage, he will be able to argue quite vigorously that there was an increase of hazard over that prevailing before the still was installed. Long experience in loss work increases the power of observation, the veteran adjuster finally gaining ability to take in at a glance conditions reflected by the premises.

While inspection should generally precede other steps, at times it is necessarily or advantageously delayed, as when weather conditions make it impossible, or when the adjuster knows that the appearance of the property is improving from day to day. In rural sections continued rain may result in muddy roads or swollen streams preventing access to the property, and, in the North, snow often covers the scene of the fire, hiding much that the adjuster should see before closing the loss.

**Meeting the Insured.**—When seeking to make contact with the insured for the purpose of commencing adjustment negotiations, the adjuster will generally proceed with little formality in

the larger cities, but outside of them will generally seek an introduction by the local agent. First contact properly made often opens the way to a relation of confidence and cooperation between the insured and the adjuster, a relation the adjuster should seek to establish in all cases, unless he finds the insured to be dishonest or unreasonable. Representatives of the insured should always be handled diplomatically, particularly when these are agents or brokers of good standing in the community.

**The Larger Cities.**—In the larger cities a great number of losses are adjusted with little or no contact between the insured and the adjuster, a broker or public adjuster negotiating on the insured's behalf. As all parties are often under much pressure for time, the adjuster is not expected to make contact with the insured or his representative before inspecting the scene of the loss. On this account the adjuster will frequently finish many steps in his procedure before he sees the insured. On the other hand, he may meet the insured on the premises at the time he first inspects the loss.

Under the custom prevailing in New York City, losses are assigned to the adjuster, who generally keeps in touch with his office by telephone, thus frequently picking up assignments in time to make his inspections between other calls. After inspecting, the adjuster ordinarily awaits a visit or telephone message from the insured's representative, unless conditions require immediate action to protect the property from further damage. In such a case the adjuster initiates the contact, but seldom otherwise. As the assignment ordinarily includes the name of the insured's representative, contacts are usually initiated with or through the representative. In many cases the adjuster never sees the insured. This may be due to absentee or corporate ownership of property, or to the character of the loss, as nothing is accomplished by the insured's appearance in unimportant adjustments. But in handling doubtful or suspicious claims, the adjuster arranges for early contact with the insured in order to question him, and to be able to identify him should he appear in the future as a repeating claimant.

In the larger cities the contact between adjuster and insured is customarily much more impersonal than in other localities.

**Other Localities.**—Outside of the larger cities the insured as a rule negotiates in person with the adjuster, getting a certain amount of advice and direction from the agent who wrote the insurance. Under the custom prevailing in these areas, the adjuster generally calls on the local agent and arranges through him to meet the insured. In these localities the contact between adjuster and insured is much closer than in the larger cities, and success or failure in negotiations is much more dependent on the adjuster's manner of dealing with people.

**Protecting Property from Further Damage.**—On inspecting the property the adjuster should note immediately any danger of further damage, and should inform the insured what steps to take to prevent it. Thus, if the roof of a building has been burned through, or has been cut open by the firemen, rain may cause considerable damage to the interior or to the contents, unless the opening is covered. If the subject of insurance is personal property, wet, and threatened with fermentation, mildew, rust, or other additional damage, prompt drying and reconditioning may save it. In the first case the adjuster should see that the insured starts temporary or permanent repairs, in the second, that he handles the property as its nature requires. If the insured has commenced protective measures before the arrival of the adjuster, these should be aided to completion with such improvement as the adjuster can suggest. Although the policy requires the insured to protect the property, it is well for the adjuster to direct the work in many cases, and when considerable loss can be prevented or valuable salvage recovered, the adjuster should not hesitate to take entire charge, and employ whatever help is necessary for effective action. The methods usually employed to protect a given kind of property will be found in the chapter dealing with such property.

**Examination and Listing of Policies.**—The adjuster should ordinarily examine the policy or policies, as by so doing he will familiarize himself with their details. He should also note in his file the particulars of a single policy, or prepare a list when there are several. Such a list, besides establishing the total insurance, enables the adjuster to prepare an apportionment when the loss is adjusted, and also to prepare or check proofs of loss without further handling of the policies. In some sections the adjusters

make it a practice to examine policies before commencing an adjustment; in others, they attach less importance to this detail. In New York City, for instance, the adjuster closes many losses without even seeing the policy, the local practice being to rely on the company records. This practice results from the custom of making frequent cancellations by registered mail operating to make the possession of a policy in many cases meaningless. In the larger adjustment offices, where organization provides for division of labor, much examining and listing is done by clerical help, thus saving time for the adjuster.

It is best to list policies in alphabetical order according to companies, as this order affords easy reference to any policy, and automatically brings together the policies of each company. The list should show policy number, commencement, expiration, company, and amount insured. When there are several items the amount of insurance on each should be shown. The list should also show the names of the agents who issued the respective policies, unless issued by company offices, and also any variations in forms, clauses, or permits that may have a bearing on the adjustment. One of the best of the several blanks devised for listing policies appears in the appendix.<sup>1</sup>

**Pertinent Information.**—The adjuster should collect promptly information needed for future use in the adjustment or the preparation of reports or final papers. In addition to the list of insurance he will need copies of the form on each policy, and if he keeps an office record and expects to prepare the proofs of loss, he will need duplicates of all forms differing from one another. On the other hand, if proofs of loss are to be prepared by the insured's representative the adjuster will need only such copies as his records require. Adjusters employed by company offices or agencies frequently omit forms from their files, depending on the company or agency for information when needed.

**The Insured.**—As a matter of identification the adjuster should check the name given by the claimant against the name of the insured appearing on the policy or policies. If it differs in spelling or in other particulars, the difference and the reason for it should be reported. If a partnership is insured, the names of

<sup>1</sup> See p. 311.



the partners should be established; if a group of individuals, the individual names; if a corporation, the names of the officers.

In the investigation of doubtful or suspicious claims, individual names are highly important, as the past history of each may be worth investigating. If these are established early in the negotiations, they may be matched up with scraps of information bearing on previous losses or business embarrassments, and lead to important discoveries.

It is, of course, unnecessary to go into the matter of individual names when inconsequential losses are being adjusted with reputable concerns.

*The Fire.*—The time and origin of the fire should be established, and should then be recorded by stating the date and hour, a.m. or p.m., and the probable cause. If possible, the place where the fire started should be located and should be recorded in the adjuster's memoranda. As the policy requires the insured to state his knowledge and belief as to the time and origin of the fire, it is advisable to record the insured's exact statement, which may later be used in preparing or checking the proof of loss. Fires are classed according to their causes as *accidental* and *incendiary*. If the fire under investigation is accidental, it will quite often be possible to determine the place and cause of origin. Fires originating in proximity to defective heating devices, or on shingle roofs due to falling sparks, or inside the premises due to careless handling of hot or burning materials, or from overheated machine bearings, are examples. While in many cases the place of origin and the cause of accidental fires cannot be determined, a careful investigation will often develop evidence tending to support a plausible theory of where and why the fire started. Such evidence should be sifted until, by elimination, all other theories can be abandoned, or until it becomes certain that no definite conclusion can be reached. Should the latter be the case the fire may be reported as of unknown origin. In case of an incendiary fire, the adjuster's task is to determine whether the insured or an outsider is to be suspected or is guilty. When reporting on incendiary fires, the adjuster should state the cause as *inside* or *outside* incendiarism. Fires are also classified according to the place of origin as *on premises*, *communicated*, or *extended* fires. A communicated fire is often described by the statement

that it was the result of exposure, the exposure being *internal* if the fire which was communicated to the insured property started inside of the building housing it, or *external* if it started outside. The terms communicated or extended are also properly used in describing losses caused by smoke, water, or falling debris in premises beyond the range of the fire itself. If a fire originates because of negligence on the part of some one other than the insured, his agents and employees, the person responsible for the fire should be located, and the facts and circumstances indicating his negligence should be established as a preparation for subrogation proceedings.<sup>1</sup> In country districts information bearing on the time and origin of fires must be determined from the statements of the insured, and the testimony of neighbors or passersby. In the cities accurate information can often be had from fire-department or patrol or salvage-corps records.

*Occupancy of the Premises.*—The names of the occupants, and the purpose for which each occupies his particular premises in the building, should be determined and recorded in connection with suspicious fires in small or moderate-sized structures. In large buildings, housing a number of tenants, it is only necessary to record what portion is occupied by the insured, and for what purpose, unless the fire originated on the premises of some other tenant. If so, the name of the other tenant, the location of his premises, and their occupancy should also be recorded.

*Title, Interest, Possession, Exposures.*—The adjuster should determine by inquiry the nature of the insured's title to the property, or the extent of his interest in it. In cases presenting suspicious circumstances it will often be advisable to consult property records or to purchase information from an abstract company. The adjuster should also find out whether there had been any changes in the title, interest, possession, location, or exposures since the issuance of the policy.

*Incumbrances.*—Incumbrances on the property should be recorded by listing the nature of each incumbrance, the holder of it, the amount, and the date it will be due for payment.

*Report Blanks or Questionnaires.*—If the adjuster collects and records the information described in the foregoing section, he will be able, at the conclusion of an adjustment, to prepare

<sup>1</sup> See p. 25.

the proof or proofs of loss and also his final report. To facilitate recording the information in convenient order and at the same time to furnish their adjusters with a reminder, a number of organizations have developed printed reports or questionnaires to be completed by the adjuster and included among his final papers. As it is seldom wise to forego an opportunity for collecting information, and unsafe to entrust it to memory, the adjuster should train himself to complete his report or questionnaire at the first meeting with the insured, and to reduce to written notice any additional information of importance. By so doing he will escape the embarrassment and delay attending attempts to duplicate information once collected but forgotten.

In New York and adjacent territory, adjusters ordinarily carry their papers folded in envelopes, specially printed for appropriate notation. A typical envelope and a card questionnaire to supplement it are reproduced in the Appendix.<sup>1</sup>

Away from New York many adjusters carry brief cases or folios, permitting the use of file jackets or folders of full letter size. Specimens, and accompanying questionnaires also appear in the Appendix.<sup>2</sup>

**Question of Liability.**—As rapidly as possible the adjuster must establish the insurer's liability by an investigation of the following possibilities:

1. Has the insured named in the policy suffered a loss, and was his interest at the time of the fire that which is covered in the policy?
2. Did the fire occur during the term of the policy?
3. Is the loss a direct result of fire?
4. Is the damaged or destroyed property that described in the policy?
5. Does the claim include any property that is not covered by the policy?
  - (a) Of a kind or at a location not covered?
  - (b) Uninsurable?
  - (c) Excepted?
6. Was the loss, or any part of it, caused by excepted hazards?
7. Is the policy valid or had it been canceled before the loss, or avoided either before or after the loss?

If the policy is void, or if there is any question of its validity, the adjuster should collect the evidence bearing on the question, and in doing so be careful not to commit a waiver or estop the

<sup>1</sup> See pp 315 and 316.

<sup>2</sup> See pp. 317 to 320.

company from declaring that it is not liable. The methods used to test liability are discussed in subsequent chapters.

**Waiver and Estoppel.**—The courts have given prominence to the doctrine of *waiver* and the kindred doctrine of *estoppel* when deciding insurance cases. While these have come from the general law, they have been applied nowhere else with the severity found in decisions dealing with the insurance contract. They should be studied so that they may be avoided.

**Waiver.**—Waiver, defined as the voluntary relinquishment of a known right, may be express or implied. Thus, if an insurance company is informed that a policy under which claim is made has been rendered void because the subject of insurance is a building on ground not owned in fee simple by the insured, and notifies the claimant that it will overlook the avoidance and pay the loss, this act is an express waiver, as the company expressly relinquishes a defense. Waiver may also be implied from some act or neglect of the company's representative, as when the adjuster leads the insured to believe that a known avoidance of the policy will be overlooked and the claim paid. If, for instance, the adjuster finds that an insured building stood on ground not owned by the insured in fee simple, but thereafter, without comment, asks the insured to incur the expense of having a builder estimate the cost of replacing the building, the insured may well believe that the claim will be paid. Such action on the part of the adjuster has been held by the courts to constitute waiver. Ordinarily the adjuster is little interested in the matter of express waiver. From time to time he finds cases in which the policy is void, but in which his company will nevertheless decide to pay on grounds of equity or because of business policy. As an instance, a dwelling may be insured in the name of the husband although the title is actually in the name of the wife. If in such a case it is destroyed by fire of accidental origin, and the amount claimed is not excessive, the company may well decide to waive the breach of contract and pay the loss. Should it so decide, it will instruct the adjuster to deny liability but state that the claim will be paid *ex gratia*, or it may instruct him to have the policy reformed by endorsement to name the real owner as the person insured, thereafter making payment to him. Under either instruction the company makes an express waiver.

But while a company may act as it chuses, an adjuster is expected to refrain from making express waivers unless empowered or directed to do so. Likewise, the adjuster should avoid acting or speaking in a manner that gives grounds for the imputation of waiver, as any claimant seeking to collect under a void policy may charge the adjuster with waiver, and may prove it in court to the adjuster's embarrassment and the company's cost. Therefore, when facts or circumstances indicate a forfeiture of the policy, the adjuster must avoid putting the insured to trouble or expense unless the company directs a waiver. Should he desire to establish the amount of loss before reporting to the company, he should enter into a written agreement with the insured that waiver shall not be implied. Such an agreement is frequently made, and is known as a *non-waiver agreement* <sup>1</sup>

Because of its consequences the adjuster should avoid implications of waiver as carefully as the surgeon seeks to prevent infection, and as the danger of waiver hangs over him whenever the policy is of doubtful validity, he should carefully adapt his action to the particular occasion. In cases when the insured refuses to execute a non-waiver agreement, it may be necessary for the adjuster to avoid him, and get what evidence he can by independent investigation. In this manner waiver can be avoided.

*Estoppel* — Estoppel is the legal bar raised by a person's own action against asserting a right that once existed. Thus a company may be estopped from exercising the option to take all or any part of the articles of personal property at the agreed or appraised value by delaying its notice to the insured until after the 30 days provided for in the policy have expired. Or if the adjuster should execute a written agreement of adjustment with the insured, the company would thereafter be estopped from demanding an appraisal unless there was mutual mistake, fraud, or collusion.

The courts are sympathetic toward insurance claimants, and are ordinarily ready to declare waivers or estoppels on a minimum of evidence. While estoppel is at times chargeable to the act of an agent, as when he writes a policy incorrectly though informed of the truth, there are dangerous periods in many adjustments

<sup>1</sup> See p. 321.

when the choice of one line of action estops the adjuster from thereafter changing to another. For this reason the adjuster must be on his guard constantly.

**Reports on Unadjusted Losses.**—If the adjuster finds that he cannot or should not complete an adjustment, he should report to the company with reasonable promptness. While reports are usually written, many are made by word of mouth, particularly in New York, where it is customary to hold meetings of interested companies and determine by a majority vote of representatives present how the adjuster shall be instructed. But whether oral or written, the subject matter of a report should be the same. Ordinarily a report is in order when the adjuster finds that no loss has been sustained, or that a loss has occurred which is not covered by the policy, or that the policy has become void because of breach of condition. In such cases he is expected to refrain from committing the company unless instructed to do so. It is also best to report on cases of suspected fraud, or excessive claim, particularly when the insured or claimant is difficult to deal with, as in such cases the company may elect to cancel the policy pending an adjustment. Work on such a case does not necessarily stop, as the report may not call for a reply. While the pressure of work does not always permit, the adjuster should endeavor to report on any loss away from headquarters, which he fails to adjust on the date of his visit. Clearly written reports forestall much correspondence and criticism.

A report on an unsettled loss should embody all of the following information:

1. A list of the insurance, preferably arranged in alphabetical order if more than one company is interested.
2. An abstract of the form on the policy or policies.
3. Date, hour, and probable cause of the fire, where and how it started, and what circumstances support the theory of origin, if the origin is doubtful.
4. Estimated or agreed value and loss.
5. Facts or circumstances bearing on liability.
6. Anything else of particular or unusual interest.<sup>1</sup>

The section of such a report presenting facts or circumstances bearing on liability should include a statement setting out the

<sup>1</sup> A report of this kind is reproduced on p. 370.

knowledge and attitude of the agent who wrote the insurance. Thus, if the insured is not the sole owner of the property, the agent should be asked why he did not write the policy properly. If the agent denies that he knew the insured was not the owner, the adjuster should report his denial, but if the agent admits a knowledge of the real nature of the insured's interest, the adjuster should find out and report the date on which the agent acquired his knowledge, as this may have a material bearing on the question of liability. In all events, the attitude of the agent should be given, whether he will intercede for the insured or feels that the claim should be resisted. In many cases companies are reluctant to stand on a contract right when to do so would embarrass an agent at fault because of forgetfulness or misunderstanding.

**Estimates, Inventories, or Statements.**—When the work of protecting the property from further damage has been planned or started, and the question of liability determined or reserved by non-waiver agreement, the adjuster should prepare to make or check the estimate, inventory, or statement on which the loss will be adjusted. If the subject of insurance is a building located in a city, the adjuster will generally have an estimate of damage prepared by a builder and the insured will do the same. The loss will then be adjusted after comparing the estimates, and correcting or compromising differences. But in the small towns and in the country, the insured and the adjuster frequently estimate and adjust building losses without using a builder. When the subject of insurance is personal property, an inventory of the items is prepared. While it is the insured's duty to make the inventory, there are times when the adjuster can expedite matters by helping with the work, and checking the correctness of the counting or pricing as the items are listed. Books and records are usually examined when a stock of merchandise is destroyed, and therefore cannot be inventoried. On important stock losses the adjuster will frequently seek help from salvage men or accountants.

**Making the Adjustment.**—When the insured has in hand the information necessary to support his claim the adjuster should be prepared to meet with him and examine it. If the amount asked is not excessive or the claim otherwise out of order, it

should be approved and the loss adjusted. But if for any reason it is out of order, the adjuster should present his own views and the evidence supporting them, and thus try to bring about an adjustment at a proper figure. If a thorough discussion of differences fails to do this, the adjuster should consider whether it will be better to leave the insured to think over the questions in dispute in the hopes that he will come to some reasonable conclusion, or whether it will be better to push the matter to a conclusion by making a demand that the loss be appraised or referred to reference without further delay. When leaving the insured, the adjuster may see fit to put him on notice that he must comply with all requirements of the policy, and continue the pursuit of his claim as best he may. Before taking other steps the adjuster will ordinarily await a request to resume negotiations, or the filing by the insured of a formal proof of loss.

When, however, the sound value and the loss and damage have been settled, either by agreement or by appraisal, the adjustment should be completed by working out the application of any limitation clauses, and by making an apportionment if one is necessary.

**Final Papers.**—When an adjustment has been made, the adjuster should prepare without delay the papers necessary to evidence and present it to the company. Throughout most of the country, the adjuster prepares a *proof of loss* which the insured signs and swears to. Thereafter, the executed proof becomes one of the several papers the adjuster sends the company to warrant payment. To support the proof of loss the adjuster encloses with it the estimate, schedule, or other data on which the adjustment was based, or makes an abstract of these in a *statement of loss* attached to the proof. In some localities the adjusters not only prepare a statement of loss, but also forward with the proof the original data, sending these to the company having the greatest liability, when several are interested. In New York City, however, the statement of loss is seldom used, the practice being for the adjuster to endorse on the proof itself his approval of the amount to be paid, and to explain the adjustment in his letter, or by notations on the estimate or schedule accompanying the proof. It is also the custom in New York City for the broker or public adjuster to prepare the proof and



secure its execution, afterwards handing it to the adjuster or filing it with the Loss Committee of the New York Board of Fire Underwriters, or the individual company, according to circumstances. This procedure has encouraged the use of adjuster's agreements, signed when sound value and loss and damage have been determined <sup>1</sup> Under the practice of the Loss Committee the proofs of loss are checked with the policies and the adjuster's letter reporting on the adjustment, and when found in order are forwarded to the respective companies with a report prepared in the Committee's office.

The adjuster's final letter or report embodying his findings, and possibly some recommendations, should conform to the custom of the locality. A complete report should summarize the adjustment by stating the agreed value and loss, and the insurance covering on each item. It should describe the risk, its construction, the portions occupied by the insured, and the character of the occupancy. It should give the time and origin of the fire, and should outline any circumstances indicating suspicious or unusual origin, or negligence that might justify subrogation proceedings. The injury to the property covered should be described so that the underwriter will know whether fire, heat, smoke, water, or falling debris caused the loss. The claim and its adjustment should be discussed, an account being given of the action and attitude of the insured or of any representative who acted on his behalf. The character, reputation, and history of the insured should be given, with individual accounts of corporation officers or firm members. The history of a business or its individuals should include a statement of the circumstances attending any previous fires. Unusual features, conclusions, and recommendations will then make the report complete. At least one adjustment organization depends upon a printed report blank to furnish the companies with information and recommendations in ordinary cases. Another organization avoids making recommendations. A letter enclosing a proof of loss which embodies a properly prepared statement of loss does not require a paragraph explaining the adjustment. On the other hand, a letter reporting an adjustment to the Loss Com-

<sup>1</sup> The form of agreement used by the Loss Committee is reproduced on p 349.

mittee in New York City is expected to incorporate figures and give an account of the negotiations required to reach an agreement on value and loss.

Practically all companies now contribute information to the Actuarial Bureau of the National Board of Fire Underwriters, where it is combined and classified according to causes of fires and classes of property.

To obtain the necessary data in convenient form an "Adjuster's Loss Report" has been in use for some years, blank copies being furnished any adjuster on request.<sup>1</sup> One of these reports properly filled out and supplementing the adjuster's letter or report, is expected on every loss.

If the adjuster is compensated on a fee basis, his bill for services and expenses, accompanied by proper vouchers for amounts paid for temporary repairs, builders, or other experts or helpers, should be forwarded with the other papers. While in some cases this must be delayed, promptness should be the rule. In some localities, the adjusters do not pay adjustment expenses, but submit approved bills to the companies for direct payment. In all localities it is customary to pro-rate adjustment expense according to insurance involved, making it necessary to secure individual bills for each company when expenses are paid direct.

Field men and staff adjusters charged with the duty of paying losses are ordinarily furnished with drafts, and are expected to attach a stub or a copy of the draft to the final papers forwarded the company. In like manner drafts are also used to pay expenses.

**Dispatching Papers.**—The adjuster should systematize his work, so that ordinarily he will complete and mail the necessary papers immediately after closing an adjustment. While occasionally the completion of papers connected with one loss must be subordinated to other pressing matters, as far as possible this must be avoided. The company or its representative in charge of losses must receive and examine the papers before issuing a draft or check in payment. Under present practice, very few payments are withheld for the period which the policy allows the company after the filing of proofs of loss. Some twenty years ago, the companies began to make cash payment of their losses

<sup>1</sup> A report of this kind is reproduced on p. 376.

immediately on receipt of the proofs of loss, and have educated the public to expect prompt payment after adjustment. Because of this expectation, any delay in payment after a loss has been adjusted is apt to irritate the insured and the agent or broker through whom his policy was obtained. If the delay is due to the adjuster's failure to complete and mail the necessary papers, he may expect criticism. If, as often happens, the insured starts to repair or replace as soon as the adjustment is completed, he may be dependent on the insurance money to pay his bills. Any delay in receiving it may prove embarrassing to him—a situation which will generally cause him to complain to the agent or broker, who will in turn complain to the company. If the delay is chargeable to the adjuster he will be blamed, not only by the agent or broker, but also by the company for disturbing business relations which it has built up, possibly by years of effort and expense.

**Subrogation.**—A certain number of fires are caused by negligence on the part of persons or corporations other than the owners of the properties in which the fires start, or to which they extend. Following such fires, the owner possesses a right of action against the person who caused his loss, and may sue him for damages. In the language of the law the person causing the loss is known as the *tort feasor* or *wrongdoer*. Because of the owner's right to proceed against the tort feasor, a provision for *subrogation* is embodied in the insurance contract. Under this provision the company becomes subrogated to the insured's right when it pays him for his loss, and thereafter may sue the wrongdoer for damages equal to the amount paid. By the provision in the 1886 edition of the New York standard policy, the company is subrogated when the fire is caused by the act or neglect of some wrongdoer. The provision of the 1918 edition, however, is much broader, as it provides for an assignment to the company of any right of recovery the insured may possess. Negligence which caused loss after the starting of a fire was not a cause for subrogation under the 1886 edition, but is under the 1918 edition. The subrogation provision of the insurance contract makes it part of the adjuster's duty to establish and preserve any right of recovery that may be acquired by the company, and when directed to do so, to attempt collection from the wrongdoer.

Collection, however, is generally referred to an attorney, because suit is almost always necessary.

*Liability for Fire Damage.* - For many years the majority of subrogation cases arose because of fires started by sparks emitted from the smokestacks of steam locomotives. In trying such cases, it was not only necessary for the plaintiff to prove that the sparks caused the fire, but it was also generally necessary to prove that the locomotive was improperly constructed, maintained, or operated. The first proof was necessary to connect the railroad with the fire, and the latter to show that it was negligent. Improperly designed spark arresters were the most frequent features of improper construction, and failure to renew these, when corroded or broken, was the ordinary evidence of poor maintenance. Unless the old-type locomotive was operated with an eye to weather conditions, it was apt to be a frequent producer of fires. If the fireman stirred the fire, or shook the grate bars while such a locomotive was going up grade under a full head of steam, his action would be followed by a shower of sparks. In some of the cases involving railroad fires, the courts decided that both engineer and fireman must take into consideration wind and weather when passing combustible property. In some states statutory liability was imposed on railroads for damage done by fires escaping from their rights-of-way, regardless of negligence. In a few cases, liability for fire damage resulting from flying sparks has been imposed on the owners or tenants of nearby property equipped with improperly constructed chimneys or smokestacks.

In late years there has been a decrease in the percentage of fires due to flying sparks, but an increase in that of fires resulting from defective installation or improper operation of electric light and power lines. Insufficient insulation inside of the property served, or inadequate protection against the effects of lightning or excess current are examples of defective installation. Mistakes of employees in switching high voltages to lines not designed to carry them, or the entry of such voltages, because of mechanical failures in transformers or other equipment, are examples of improper operation. A recent conflagration was charged to fire starting from the arcing of a broken power wire which ignited dry grass adjacent to a residential section.

Lack of care in pumping or otherwise handling explosive oils is another cause of fires. Recently a tank wagon made the serious mistake of delivering gasoline to the storage tank of a householder whose furnace was designed to burn fuel oil. When the gasoline reached the fire box there was a flash, followed by a serious fire. Fires have also originated from the careless handling of painters' torches which are used for burning off paint. These torches use gasoline. Oil refiners who have allowed oil to escape onto the waters of a river, where it ignited and communicated fire to the property of others, have been held responsible for their negligence.

Similar cases have resulted from the careless action of municipal employees in setting fire to trash piles when weather or other conditions were such that the flames spread to adjacent property. Litigation has also arisen over fires resulting from failure to extinguish fire in portable forges, failure to quench ashes on removing threshing machines from fields, and from the negligent use of steam-threshing apparatus, furnaces requiring extreme heat in their operation, stationary boilers, refuse burners, traction engines, tractors, logging engines, steam rollers, steam shovels, and hoisting engines.

*Investigation by Adjuster.*—When the adjuster learns of facts or circumstances that point to the responsibility of some third party for the insured's loss, he should promptly warn the insured not to make any settlement with the suspected wrongdoer that does not include reimbursement of the company. In many cases the wrongdoer will offer to pay the insured for that part of his loss which is not covered by insurance, but will seek to evade liability for the rest of it. If there is inadequate insurance on the property, or if there are uninsured items, the wrongdoer will often propose to pay for these, realizing that he can defend himself more successfully against the claim of an insurance company than against the claim of an owner. In some cases it will be well for the adjuster to explain to the insured that any release of the wrongdoer without the consent of the company will justify the company in refusing to make payment, as such a release will defraud the company of its right to recover its own loss. If the wrongdoer is active in his efforts to treat direct with the insured, the adjuster

should warn the company, so that when it makes payment it may secure itself against a subsequent settlement and release which does not include the insured loss.

After attending to this feature, which will present itself in only a small number of cases, the adjuster should collect as rapidly as possible the available evidence, in order that it may be used in making claim against the wrongdoer. Unless this is done promptly it is quite possible that some of the evidence may be concealed, destroyed, or distorted before it is examined and recorded. The adjuster should also make some investigation of the financial responsibility of the wrongdoer, as time and effort will be wasted if he is insolvent. When investigating fires thought to be the result of sparks emitted from the smokestacks of locomotives, the adjuster should take signed statements from all witnesses willing to give them, the statements covering wind direction and weather conditions at the time the fire started, the identity of the train or locomotive which passed the property, with train number or locomotive number when this is known to the witness, the size and quantity of sparks emitted, and any other facts and circumstances throwing light on the occurrence. It is well for the statement of each witness to include the location from which he observed the facts to which he will testify. If the property involved is entered by a railroad siding or switch the adjuster should determine by investigation whether this was installed by the railroad under a contract that the insured should hold the railroad harmless in case of fire damage. There are many such contracts. There is always a prompt investigation of fires adjacent to the right-of-way by representatives of the railroad, who endeavor to commit all witnesses to written statements. This should be borne in mind by the adjuster. When investigating fires thought to be due to other kinds of negligence, there should be the same attention given to the statements of witnesses who can testify to pertinent facts, but there will be need at times to get possession of other kinds of evidence, oil containers, pieces of wire, fused switches, fuse blocks, or sections of material or pieces of debris which will indicate conditions obtaining at, or during the fire. In a recent case involving the liability of a contractor erecting the steelwork of a nearby

building, the adjuster was able to get possession of the rivet which had missed the bucket of the worker who should have caught it, and fell in its red-hot state through the skylight of the insured premises into a bin of ostrich plumes which promptly ignited. The rivet was a piece of evidence corroborating the statement of the clerks on duty at the time of the fire.

When all evidence has been gathered a summary of it should go to the company with a clearly written report giving the adjuster's opinion of what may reasonably be expected in the way of a recovery. Ordinarily he should recommend pressing the matter or abandoning it according to the evidence in hand and the financial condition of the wrongdoer.

If the preliminary investigation of the adjuster convinces him that the wrongdoer should be called into account, the adjuster should arrange with the insured to invite the wrongdoer to participate in the adjustment, so that he may have some part in determining the amount for which he may later be sued. If he accepts, his contact may bring about an amicable settlement; if he refuses, his refusal will tend to affect his interest adversely when it becomes known to the jury sitting on the case.

*Collection* —If the adjuster is asked to undertake recovery, he should interview the wrongdoer and determine promptly whether or not there is a chance for collection without suit. If there is not, he should arrange for a prompt handling of the case by an attorney unless instructed to do otherwise. It is customary, however, to refer recoveries direct to attorneys. Usually those who handle insurance cases have the facilities for investigating and preparing subrogation cases, but in some localities it is best to place litigation of this character in the hands of attorneys who specialize in damage suits.

Subrogation cases are usually handled by attorneys on a contingent basis. When a case is to be handled on such basis, the percentage of compensation should always be fixed at the time the case is placed in the attorney's hands.

The adjuster in some cases will be expected to assist in the preparation, and to testify when the case is tried.

*Plan of Operations.*—An established adjuster will generally handle several hundred losses every year. Ordinarily he is notified of these in the order of their occurrence, and generally

he will be free to take up the adjustments in this order. There are, however, frequent occasions when several losses occur at almost the same time, particularly during periods of abnormal cold in the winter months. Following a series of unusual fires, the pressure of work will dislocate orderly attention to it. As a rule there is great irregularity in the demands made on the time and physical powers of the adjuster. Periods of quiet alternate with those of tension and confusion. Sometimes fires are far apart geographically, sometimes they are confined for weeks to some small area. At times the adjuster will find his duties comparatively light, at other times the exigencies of the situation require late hours and hard traveling. The adjuster in the Metropolitan area will have weeks in which he will be able to keep his engagements, and clear his papers according to schedule, but he will have other periods when conflicting demands for his presence will oblige him to put in considerable overtime if his output of completed papers is not to fall far behind. The demands on the adjuster are often so irregular and conflicting that he must be guided by some consistent general plan in selecting work to be given precedence over other work, in order to conserve his time, energy, and expense as much as possible. Such a plan should provide that, when possible, losses should be visited in the order of their occurrence. This order, however, must necessarily be subordinated to traveling conditions, and also to the necessity of giving precedence to damage involving damaged risks in which further damage can be prevented by prompt action, or the property can be restored to tenantable condition, and tenancy or business resumed after inspection by the adjuster. In the Metropolitan area, the adjuster ordinarily reaches the scene of every loss referred to him within 24 hours after being notified. The adjuster who travels over an area of sparse population and long distances will probably leave his office with enough assignments to keep him busy on the road for an entire week. He should, therefore, arrange his route so that neither time nor mileage will be wasted. When several losses are to be adjusted in one city or town, they should be taken up, as far as possible, in the order that will do most to prevent further damage. The adjuster, however, must also keep in mind the convenience of claimants and agents, and, by adapting his



movements to this, avoid the ill-feeling that arises with vexation. Occasionally the adjuster finds a situation dominated by the standing or personality of one claimant, whose action will greatly influence that of the others. Such a situation often arises after a fire in a cotton warehouse storing lots of cotton for many different farmers, merchants, and other owners. One of the claimants will be looked to by the others to fix the price basis for adjusting all the losses. In a situation like this, the adjuster will soon identify the dominating claimant, and should take up and adjust his claim first.

Some losses look their worst immediately after a fire, and afterwards improve in appearance to a certain degree. A person who enters premises while water is pouring from the upper floors through the ceiling and down the walls, drenching everything exposed, will get the impression of a much greater damage than he will get a few days later after the premises have somewhat dried out. There will be no difference in the actual damage done, but there will be a marked difference in the appearance. Disorder and confusion increase the appearance of loss; order and orderly activity decrease it. An impression of serious loss will often be created by smoke. A person entering smoke-filled premises during the progress of a nearby fire will often imagine that serious damage is being done to decorations or contents. A few days later it may be impossible to find even a trace of smoke, particularly if the premises have been properly aired. Many times, smoke dissipates without leaving an appreciable deposit, sometimes leaving less than the amount of dust that settles while the premises are open for business. For the foregoing reasons it is often well for the adjuster to avoid inspecting smoke or water damage until most of the smoke or water has been evacuated from the premises. If he sees the premises at their worst, he will be apt to overestimate the loss when the time comes to make the adjustment. On the other hand, when stock of a perishable nature is wet, particularly if it is of a kind that ordinarily requires removing and reconditioning, the sooner he sees it and arranges for its proper handling the better will be the result.

When a number of claimants have suffered from the same fire, there will often be some among them who by temperament

are more susceptible to shock than are the others. As a general rule, such claimants should be avoided until they have had a chance to recover their equilibrium. From time to time they will hear from friends and neighbors that the other losses are being settled, and in the meantime they will be getting further away in point of time from the occurrence of the fire.

In all situations, the adjuster should try to escape pressure that will require him to work at excessive speed. Haste endangers accuracy and often leads to expensive oversights.

**Conflagrations.**—The greatest catastrophe in the history of insurance was the conflagration which followed the San Francisco earthquake in 1906. Next was the Chicago conflagration in 1871. Since 1906, Chelsea, Houston, Augusta, and Atlanta have suffered severely. Following a conflagration, insurance companies make every effort to adjust and pay their claims with equity and dispatch, for which reason the rehabilitation of adequately insured communities is usually rapid. A conflagration creates an immediate demand for an immense amount of loss work to be done in a comparatively short time. To do this work effectively, the men placed in charge of it must at once start mobilizing personnel and equipment, collecting information, and arranging work.

**Confusion.**—Following a major disaster the community will be disorganized in direct proportion to the extent of property destruction and loss of life. Because of this disorganization, it is impossible for adjusters or companies to get reliable information promptly. Transportation will frequently be demoralized, sometimes suspended until streets can be cleared of debris. Telephone service will be impaired, and there may be a shortage of water. Gas and electric plants may have been destroyed, or may have to be shut down until gas connections to destroyed property can be plugged, or electric wires disentangled or replaced where they have been carried down by the burning of poles or the falling of walls. The demand for police and relief work will press into service a large number of citizens whose normal duties must perforce remain unperformed for the time. The people as a whole will suffer from the effects of the shock, and there will usually be a rush to the offices of the insurance companies or local agents for additional insurance to cover unprotected or insuffi-

ciently protected risks. These offices will often be demoralized to such an extent that it will be impossible for the adjuster to get any immediate assistance from them.

*Information for Companies.*—Companies suffering conflagration losses will desire special information in order to estimate the amount of their losses and the desirability of accepting additional commitments in nearby undamaged areas. Ordinarily there will be a great influx of new business into the agencies or local offices, often in such volume as to tax severely the carrying capacity of the companies to which it is tendered. If any risks in the conflagration area have not been totally destroyed, the condition of these at once becomes a matter of considerable interest. Company offices that need an accurate estimate of their losses in a minimum time can do much toward helping the men on the ground by

1. Taking off according to geographical arrangement the policy numbers and amounts shown on the maps in the affected area.

2. Getting out the daily reports, arranging them in the same order, and scheduling them.

3. Preparing inspection slips, and keeping the slips in the order shown by the schedule.

4. Sending both schedule and slips to the person in charge of the work, packing the slips so they will not be disarranged.

If slips and schedule are received on the ground in this shape, the slips can be parceled out promptly to different men, the risks inspected, the results of the inspections transferred to the schedule, and both slips and schedule returned to headquarters with the minimum delay.

*Acute Problems.*—The necessity of rebuilding, refinishing, and restocking the community produces an unusual demand for materials, labor, and transportation. This demand will cause a natural rise in prices which will persist until outside sources have been drawn upon, and an equilibrium between demand and supply established. Until conditions stabilize there will be profiteering. The acute problems of adjustment after catastrophes include difficult working conditions, excessive prices, and the emotional character of the average claimant. The adjusters may have to put up with poor hotel accommodations, bad food,

irregular hours, and makeshift office arrangements. To meet the convenience of homeless claimants, it will often be necessary to work early and late, and under conditions of haste and pressure which make it difficult to obtain reliable information. The adjustment of many claims must be made while prices are rising or high. The best that can be accomplished under usual conditions is to keep the prices allowed from exceeding the average advance justified by the relation of supply and demand. Many claimants will present estimates made by profiteers who are not satisfied with the advance in prices justified by the demand, but who hope to speculate on the necessities of the occasion. Added to the foregoing, the adjuster will find the additional trouble of having to deal with many claimants affected by hysteria, who will contend for excessive claims with unusual stubbornness. This in turn will be aggravated by the appearance of mob psychology when the claimants congregate about the adjustment offices, and compare notes with one another. Great pressure will also be brought to bear on the adjusters to force them to consent to the making of extensive repairs before inspection and adjustment. Particular claimants or agencies will also demand undue attention. While the adjusters should do all in their power to encourage and hasten rehabilitation, they should refuse to permit acts or neglect which will destroy the opportunity for intelligent adjustments. It is of vital importance that they resist the efforts of claimants and their representatives to force adjustments before proper information is in hand.

*Organization.*—The directing loss men must create an emergency organization on arriving at the scene of the conflagration, similar in many respects to the loss department of a company, or the branch office of an adjustment bureau. Working quarters must be secured, furniture and supplies assembled, and clerks employed. There should be an immediate tabulation of all claims reported: files, indexes, and records should be prepared; and arrangements made for a proper distribution of assignments to the men who are to do the actual adjusting. If the property involved is of the same general classification, the work may be allotted territorially, a properly blocked off map being of great assistance in such cases. If, however, the conflagration has destroyed a section containing a varied character of risks, the

adjustments should be allocated according to the talents of the adjusters. The organization should promptly transmit all finished papers to the proper company office, so that payments can be made without delay; or it should make the payments on the ground if it is a company organization, and the company wishes the work handled in this manner. Finally, all work should be completed in such fashion as to check with the company's records, particularly as so many companies now carry excess cover catastrophe reinsurance. Before any material payments are made, some clearing house should be established to prevent duplications, or the failure to include in the list of insurance all policies on any given risk.

*National Board Plan*—Some years ago the National Board of Fire Underwriters suggested a plan for handling conflagration losses, which has been followed with increasing efficiency as companies and adjusters have become familiar with it. Under this plan a general committee is elected by the representatives of the interested companies before which problems of common interest are discussed. In some cases, the committee is given authority to supervise the adjustment of losses in which more than three or sometimes four companies are interested, for the purpose of reducing the number of adjusters to one or two, or in serious cases, three, thus avoiding the waste of time and effort which would result from having each company represented by a different adjuster. The National Board does not attempt to formulate the policy of any general committee which may be elected, but merely offers to assist by providing a general index of losses, both by name of insured and by location, so that loss papers may be checked and duplicate payments avoided. This index is written up on cards from information furnished by the companies themselves, which are asked to send to the representative of the National Board, complete lists of their policies covering in the affected area as soon as these can be prepared. As soon as the National Board is informed of a conflagration, one of its employees is dispatched to the scene with a cabinet of supplies, and on his arrival he employs help and organizes the work of writing up the index. When this has been completed, he arranges to check the lists of insurance on the proofs of loss submitted to him. Under the National Board

plan there is very little chance for duplications of payment, or for the omissions from lists of insurance of policies that should contribute. The functioning of the National Board's plan improves with experience.

**Controversies between Companies.**—During the adjustment of many losses there will develop a conflict of interest between two or more companies. Such conflicts usually arise because of differences of opinion as to the correct application of insurance or the apportionment of the loss, or because of an attempt to cancel or substitute policies. Non-concurrent policies are responsible for a number of controversies, as the proper application of excess insurance, the interpretation of clauses and the methods of apportionment differ in various sections of the country, and sometimes in different localities in the same section. The usual dispute of this sort is brought about by the act of one company in ordering its agent to cancel a certain policy. As the agent generally wishes to keep the insured protected, he writes a policy in another company as soon as he receives the order to cancel, and mails the second policy to the insured asking that the first be returned as canceled. If loss occurs before the first policy has been surrendered, a dispute almost always follows.

**Arbitration.**—As in many cases the insured is the innocent victim of well-meaning but misinformed agents, there is a strong feeling on the part of many underwriters that in controversies between companies the insured should not be forced into litigation. There is a growing tendency to arbitrate such controversies when the insured has sufficient insurance to cover his loss, and has been innocent of wrongdoing. Arbitration is usually held before a selected group of arbitrators, or before the Committee of Adjustments of the National Board of Fire Underwriters. Some years ago the National Board offered the services of its committee to the companies with the result that a number of cases have been disposed of without litigation or expense. A controversy may be brought before the Committee on Adjustments of the National Board of Fire Underwriters only by the unanimous agreement of all the companies interested. The committee dislikes to handle controversies in which there is disagreement over facts, and prefers that a statement of facts be formulated and accepted by all of the companies at interest.

When the statement of facts has been prepared, the companies submit briefs and sometimes exchange briefs with one another. Arbitration should be encouraged, not only to save expense, but also to center the intelligent attention of the best brains in the business on certain types of controversies, to the end that evils may be corrected and litigation discouraged.

## CHAPTER III

### THE INSURED

**General.**—The adjuster ordinarily deals with the insured named in the policy. If, however, the insured dies during the term of the policy, and a loss occurs after his death, or if at the time of his death there is pending an unadjusted loss, his legal representative or representatives will take his place in adjustment negotiations.

As the policy is a contract which provides for the payment of money, there may also be occasions after the occurrence of loss when the right to proceeds will pass to third persons by assignment or by operation of law. If the claim is assigned, the circumstances attending the act may require the adjuster to deal with the assignee. In cases of bankruptcy, or of the disability of the insured to act as party to a contract, such persons as receivers, or trustees in bankruptcy, or guardians may be put in charge of his property, and may thus become entitled to adjust or collect a loss occurring under a policy taken out in his name.

**Who May Be Insured.**—A policy may name as insured an individual, a partnership, an association, a corporation, a joint-stock company, or a combination of two or more of these. An individual may be insured under his own name or under a trade name. The trade name of a partnership may be used in the policy, or the individual names of the partners may appear.

**Individuals.**—An individual, in the event of loss, acts for himself. It is necessary, therefore, for the adjuster to locate him, or communicate with him, and learn whether he will make the adjustment himself, or will empower someone to act on his behalf, and later ratify the adjustment by executing the proof of loss. If the insured is at a distance, and desires to have the loss adjusted by a representative who shall also execute the proof, the insured should furnish the representative with a power of attorney. The adjuster who deals with the attorney-in-fact



should examine his power of attorney, and after satisfying himself that it is sufficient, should send the original, or a certified copy, to the company. Except in the larger cities, the adjuster customarily deals in person with the insured, though in some instances he must deal with local agents who act for their clients. In the larger cities, many losses are adjusted on behalf of the insured by brokers or public adjusters.

When the adjuster deals directly with the insured, he generally concludes his negotiations by preparing a proof of loss which incorporates the details of the adjustment, and presents this to the insured for signature. In some sections, however, he instructs the insured or his representative to prepare it. The signature on the proof, which should be the same as the name on the policy, ordinarily indicates to the company to whom it should make payment.

**Legal Representatives of the Insured.**—The term *legal representatives* ordinarily means executors or administrators. The term, however, is sufficiently broad to include under certain circumstances heirs-at-law, next of kin, legatees, or devisees.

When an adjustment is made with an executor or administrator of an insured, the adjuster should require such representative to furnish a certified copy of the letters testamentary to accompany the proof of loss. These letters are issued by the Surrogate, Judge of Probate, or Ordinary, and evidence the appointment and qualification of the person to whom they are issued. Exception can be made in cases of executors or administrators who represent well-known estates, when the endorsement of the company's check or draft by such executors or administrators will be guaranteed by one of the banks in the community. If circumstances are such that claim can properly be made by heirs-at-law, or next of kin, as when an insured dies intestate but leaves no debts, the adjuster should require them to furnish him with affidavits from at least two reputable citizens of the community, stating the names and addresses of all the heirs or kin, and also the date of the insured's death.

**Several Individuals.**—If the policy is issued to several named individuals, it is incumbent on the adjuster to see that all execute the proof of loss, or that one executes it on behalf of the others,

after securing their agreement to the settlement, and their promise to endorse individually the draft issued in payment. If one or more of the named individuals has died, the adjuster should investigate the authority of any person claiming to be a legal representative, in the same manner as in the case of a single individual.

**Partnerships.**—The obligations of partnership are such that one partner can by his acts bind the other partner, or partners, in any matter of partnership business. Usually one partner dominates the affairs of the firm, and, in the event of loss, will act for his co-partners, who will be bound by the adjustment he makes. If a partnership is insured under a trade name, which does not state the names of the individual partners, their names should appear in the adjuster's report. If the partners operate under written articles of partnership, their names will appear in the articles. Some partnerships, however, are organized under oral agreement. In such cases the identity of partners can be established by the affidavit of one of them, though this is rarely necessary.

**Associations and Joint-stock Companies.**—The term "association" is used to designate an unincorporated group of individuals who have so organized themselves that they may be bound in matters pertaining to their common business venture by the act of a single designated person, or by the act of a small group of their members. An association generally transacts business through a manager, chairman, or attorney-in-fact, who derives his power from the individual members. In some instances, transactions must be approved by a board of directors or supervisors. In dealing with an association, the adjuster should see that the proof of loss is executed by the person or persons authorized to act on their behalf.

There is no essential difference between an association and a joint-stock company, which under the common law was midway between a partnership and a corporation, lacking the element of a charter granted by the state, but presenting a corporate method of doing business and a plan of organization and perpetuation by means of transferable shares. The joint-stock company has capital stock and officers like a corporation, but its members are individually liable for the debts of the company. In some

states, statutes have been passed doing away with all substantial distinctions between joint-stock companies and corporations. Since, in any event, individual shareholders cannot bind the company, the adjuster should see that the proof of loss is executed in the name of the joint-stock company by one of its duly elected officers.

**Corporations.**—As a corporation transacts business only through its officers, the adjuster should ordinarily deal with a duly accredited officer. If the officers, however, desire to have the corporation represented by a subordinate employee, or other person, because of his technical qualifications, the adjuster should see that the corporation ratifies the adjustment by having one of its officers execute the proof of loss. The minute book of the corporation will show the names of the officers. When the adjuster reports on the adjustment of any important loss sustained by a corporation, his report should give the names of the officers.

**Several Individuals Not Separately Named.**—The adjuster will occasionally find policies which have been issued to a group of individuals under such titles as, Heirs of John Smith, Estate of Henry Morgan, Deacons of Main Street Presbyterian Church. In such cases it may be necessary for the adjuster to collect affidavits which name all of the individuals comprising the group. This is not often necessary, as the companies endeavor to have any policies which may be written under such group names amended to give the individual names. In case of doubt, it is well for the adjuster to secure the affidavit of each of the individuals who may be accessible, and in addition the affidavits of two reputable, disinterested citizens, all affidavits naming the individuals who constitute the group and giving their addresses.

**Survivors.**—Occasionally a policy will name as insured two individuals whose relation to the property is such that, after the death of one, the other is entitled to ownership. When such is the case the *survivor* is entitled to collect a loss which may be unpaid at the time, or which may occur thereafter. Consequently, the survivor is the only person with whom the adjuster needs to deal, or whose signature should appear on the proof of loss.

In some cases, more than two individuals are named, and if their relation to the property is the same as that described in the

previous paragraph, there may be more than one survivor. In such cases the adjuster deals with all, or with one who may be empowered to act for the others also.<sup>1</sup>

When dealing with a surviving insured, the adjuster, before completing the adjustment, should determine the survivor's right to make claim. If the right has arisen out of a relation to the property created by will or deed, the adjuster should examine the original or a certified copy, taking an abstract or copy of the instrument for the company's file. If the right arises because of statutory enactment or at common law, the nature of the survivor's relation to the property should be recorded in the adjuster's memoranda, and described in his report to the company. The adjuster should also require the survivor to furnish evidence establishing the date of death of the person survived. This evidence should be either a certificate of the officer in charge of vital statistics; or, if the death has occurred in an area where deaths are not recorded, the certificate of the attending physician, or the affidavit of some prominent citizen of the community. The certificate or affidavit should be forwarded with other final papers.

If two or more persons named in the policy have survived others, or have been survived by others, the rights of the several survivors are to be determined in the same manner as in the case of a single survivor, and the dates of death of all persons survived evidenced by certificates or affidavits, in the manner prescribed for evidencing the death of one person survived.

**Bailors under Trust and Commission Clause.**—As the courts have held that bailors of property insured in the name of a bailee may adopt the bailee's insurance in event of loss, there are rare occasions when the adjuster will be compelled to deal with individual bailors, instead of with the bailee whose name appears in the policy. In such cases, the names of the bailors must appear in the adjuster's report; and if they do not execute the proof of loss, their names should appear in the proof executed by the bailee. It is quite unusual, however, for individual bailors to make claim. The usual practice is for the bailee to present claim on behalf of the bailor; and if several bailors are interested,

<sup>1</sup> A discussion of the conditions under which the right of survivorship exists will be found on p. 409.

the several claims are summarized in a single proof under each policy. Individual bailors seldom make claim unless the bailee fails to present claim on their behalf.

**For Account of Whom It May Concern.**—Policies are sometimes issued in which the name of the insured is followed by the words, “for account of whom it may concern.”

In such cases, the adjuster should make careful inquiry as to possible rights of others than the named insured, and should, in any case which threatens to produce a controversy, take affidavits from all persons claiming a right to proceeds from the insurance. If, at the time of loss, the property involved is found to belong to some person other than the named insured, the adjuster should either secure a written agreement from the true owner that the loss shall be adjusted with, and payable to, the named insured, or both the named insured and the true owner should execute the proof.

**Assignees.**—After a loss the insured may assign the claim. In such a case the assignee may take control of the adjustment, although he may not substitute himself for the insured if the company demands that the insured submit to examination under oath. Ordinarily, assignments are not made until after adjustment has been completed, and the proof executed by the insured. In dealing with an assignee whose assignment became effective before adjustment, the adjuster should see that the proof of loss is executed by the insured, if the insured is at hand, and that the assignee joins in the execution. If the insured is difficult to reach, the assignee’s execution of the proof of loss will be sufficient. The original assignment, or a certified copy, should accompany the final papers, and the reason for the assignment should be covered in the adjuster’s report.

If the insured assigns a specific sum which is less than the amount due him under the adjustment, the adjuster is under no necessity of dealing with the assignee, but should transmit the original assignment, or a copy, to the company, covering the reasons for the assignment in his report.

**Receivers and Trustees in Bankruptcy; Guardians.**—A receiver in bankruptcy is a custodian of the bankrupt’s property of all kinds. A loss remaining unadjusted at the time the insured is declared bankrupt may have to be adjusted with the receiver.

If a loss should occur during the period of receivership, it may also have to be adjusted with the receiver. In either case, the adjuster should have the proof of loss executed by the receiver, and should secure a copy of any court order empowering the receiver to adjust, and also a certified copy of the receiver's certificate of appointment; both of which should be forwarded with other final papers.

A trustee in bankruptcy is an officer elected by the creditors, who takes title to the estate of the bankrupt. If a loss is unadjusted at the time a trustee in bankruptcy is appointed for the insured, the loss must be adjusted with the trustee. On completing such an adjustment, the adjuster should secure a certified copy of the trustee's certificate of appointment, and should forward this copy with other final papers.

If it becomes necessary to adjust a loss with a guardian of an insured, a certificate of the guardian's appointment should accompany final papers, and the reason for the guardian's appointment should be covered in the adjuster's report.

## CHAPTER IV

### BUILDINGS

**General.**—Under the heading “buildings” are grouped buildings, bridges, platforms, sheds, docks, tipples, trestles, tanks, stacks, and other structures. Buildings are usually classified according to their construction as *frame, stucco, iron-clad, brick-veneered, brick, stone, or fireproof*. Fireproof buildings may be of steel-frame, reinforced concrete, or all-metal construction.

**Effects of Fire.**—Fire may consume a building, or create enough heat, in consuming the combustible material used in its construction, to destroy the value of the non-combustible material. Fire is seldom checked if it gains real headway in an unprotected frame building, and ordinarily destroys it. If the foundations are principally above ground, both the chimneys and foundations are generally so thoroughly heated that they must be torn down and reconstructed before the building is rebuilt.

Brick buildings not under fire protection may suffer destruction if the boards and timbers of the floors and the roofs are heavy and generate sufficient heat when burning to disintegrate the mortar in the walls. In such cases the walls usually fall, leaving on the site of the building a mass of broken brickwork which has to be cleared away before rebuilding operations can be commenced.

Even in protected areas, both frame and brick buildings may be destroyed, though such a result is unusual. A conflagration will level entire blocks of brick buildings as well as devastate areas built over with frame construction. In such disasters only the best types of fireproof buildings resist destruction. The wooden parts of ordinary brick buildings may be seriously injured by the burning of combustible contents. Under sufficient heat such non-combustible materials as brick, stone, or concrete will crack. Metal parts will soften and, in severe fires, melt. The softening of metal beams or columns is often followed by displacement of parts of the structure resting on them. To shore up

a floor which has settled, and cut out and replace bent or twisted girders or beams, is an expensive operation. Heat from the burning of an adjacent building will crack glass in windows or doors. Water used to extinguish fire injures inside woodwork, and unless drained off or wiped up promptly, may cause floors or trim to crack or buckle. Water also loosens plaster and wallpaper, discolours paint or decorations, and causes other damage. If a large quantity of water is used to extinguish fire in a building filled with closely packed contents which, like bulk cottonseed, will absorb the water and swell, the swelling of the contents may force outward or even break open the walls of the building. Debris or heavy articles from upper floors may be precipitated by the burning of supporting columns, girders, or joists and cause serious wreckage in the lower parts of the structure. Falling walls sometimes crush or damage other structures.

If the roof has been opened or the windows broken, a building may suffer further damage after a fire has been extinguished, due to the freezing and bursting of water pipes, tanks, or plumbing. Rain entering through holes in the roof or through broken windows may do serious injury to plaster and finish.

Lightning shatters wood and mineral substances such as brick, stone, terra cotta, or tile, but does not injure metal of high conductivity.

Fires which originate in brick or frame buildings in protected areas are usually extinguished, leaving the structures in a damaged condition requiring repairs of varying extent and costliness.

**Measure of Loss.**—If a building is totally destroyed the owner sustains a loss equal to the value of the building. If a building is not out of date, and is suitable for the use made of it, its value is usually measured by first determining the cost of rebuilding, and from this deducting whatever depreciation the building has undergone by reason of age, use, or exposure to the elements. If a building is old and in bad repair, the element of depreciation will be great. If a building has become obsolete because of changed methods of construction, it will be difficult to make an accurate valuation. The difficulty of attempting to fix the value of obsolete buildings will be discussed at length in a later section.<sup>1</sup>

<sup>1</sup> See p. 58.



If a building is damaged by fire but not destroyed, the loss sustained by the owner is ordinarily measured by the cost of restoring the structure to the condition existing before the loss occurred. If necessary repairs are not extensive, and do not involve the replacement of an entire unit, such as a roof, it is not customary to deduct depreciation from the cost of making repairs. If, however, repairs are so extensive that a substantial portion of the structure will be renewed, a proper depreciation should be deducted, as otherwise the owner, on the completion of the repairs, will be in possession of property more valuable than it was before the loss.

**Protection from Further Damage.**—The adjuster should see that immediate steps are taken to protect the interior of a building from further damage if he finds that fire has burned through the roof or has broken the windows. In cases of emergency, tar paper may be nailed over holes in a roof, and windows may be boarded up. In many cases, however, it will be best to have the work of repairing the roof started at once, and to replace window glass or sash, in this way avoiding the additional cost of temporary repairs. If the heating system has been put out of commission, and the weather is cold, either the plumbing should be drained or the heating system put in working order without delay. If water is standing on wooden floors they should be swept and mopped as dry as possible in order to prevent swelling. Wet debris in contact with woodwork should be removed, and the building aired or dried by artificial heat, according to weather conditions and facilities. The work of protecting the property should be done by the insured, as it is one of the duties imposed upon him by the policy. The cost of temporary repairs, or of other protective work in cases of necessity, becomes a proper item in the claim.

**Procedure of Determining Value and Loss.**—If a building has been totally destroyed, the adjuster's first efforts are usually directed toward determining the probable cost of reconstruction. If the building was new, it may be possible to locate the original records covering the cost of construction, and from this to eliminate items which will not have to be expended in reconstruction. The cost of excavating the site is such an item. If a complete record of the cost is not to be had, it is possible that the original

plans and specifications can be obtained from the architect or builder, and the cost of reconstruction accurately estimated.

In making an estimate, the separate cost of the various items making up the structure should be considered. Foundations, carpentry, plaster, mill-work, glass, roof, paint, plumbing, lighting and heating, contractor's profit, and, on expensive structures, the architect's fee, are the usual items entering into cost.

If the building was old it is rarely possible for the adjuster to locate original plans and specifications. In such a case it may be necessary to make sketches based on measurements of the foundations and other remaining portions of the structure. To supplement measurements, the owner or occupant should be called upon to describe the construction, and the description which he gives should be checked against the debris for confirmation.

When the cost of reconstruction has been established and agreed upon, depreciation is next to be considered. A number of tables have been compiled in which the average depreciation of the various parts of a building are given, but it should be borne in mind that, while these tables are valuable guides, they do not necessarily determine the depreciation of the particular structure which the adjuster has under consideration. Most of these tables are based on the factor of age, whereas in every risk there are the important factors of care and upkeep which will cause the depreciation to vary from the average annual scale according to the degree of attention given the property. For example, a building that is regularly painted, cleaned, and occupied depreciates much more slowly than one on which the paint is neglected, or which is allowed to accumulate dust and dirt, or which is unoccupied.

In recent years there has been a steady growth in the business of appraising property, and some of the individuals and companies engaged in it have established reputations for producing reliable appraisals. Occasionally the adjuster will be presented with an appraisal made at some date before the fire, the owner claiming that it correctly shows the value of his building. All such appraisals should be carefully checked before their figures are accepted.

The exercise of the company's option to rebuild in case of total loss is today almost unheard of.

*Partial Losses.*—The adjustment of a partial loss to a building requires that the extent of repairs and cost of making them be determined, or that the building be repaired to the satisfaction of the owner. In order to repair fire damage it is generally necessary to tear out the material which has been damaged, and replace it with new. In case of slight damage, it may only be necessary to clean, refinish, or repaint.

Woodwork which has been seriously burned must be renewed. If slightly scorched it may sometimes be made serviceable by scraping and repainting, or otherwise refinishing. Beams or other heavy timbers that have been slightly scorched can sometimes be boxed to the satisfaction of the owner. Plaster that has had the key broken, or which has fallen, must be replaced. Brickwork is sometimes cracked or spalled. If so, the bricks must be cut out and relaid, or the surface must be covered with cement. Slight damages to brickwork may necessitate only cleaning and repointing. Paint or other surface coatings or decorations must generally be completely renewed, though these can sometimes be satisfactorily washed or cleaned.

Damaged steel members, which have sagged or bent, are sometimes removed after the heads of the rivets holding them in place have been cut away with chisels or burned off by acetylene or electric torches. The members are then straightened in power presses or under steam hammers, after which they are returned to their places, and again riveted into the structure.

In fireproof buildings serious damage sometimes occurs because wooden cabinets or cupboards have been built adjacent to fixtures or mechanisms, such as elevator machinery, which are highly susceptible to damage; or because combustible material has been used in the construction of shafts carrying pipes or wiring.

Damage to docks or piers may require piling to be drawn and re-driven, a quite expensive operation, or to be capped if such a method of repair is satisfactory.

The items which ordinarily enter into the cost of repairing are material, labor, builder's profit, the cost of removing the debris from the premises, and, in some cases, an architect's fee. An architect's fee is not a proper item to be considered unless the

work of repairing is so extensive or of such a nature that the owner would ordinarily employ an architect to supervise it. On large building losses such items as liability insurance and superintendence are often taken into consideration.

The adjustment of a partial loss is generally more difficult than the adjustment of a total loss, as there is room for disagreement over both the extent of the repairs and the cost of making them. While these are usually left to the judgment of builders, there are some adjusters who have the experience and ability necessary to prepare specifications, and determine the cost of work.

Occasionally a partial loss is adjusted by having the actual repairs made, keeping a record of the total expenditure which, less proper depreciation, is accepted as the amount of loss. In such cases the insured has the work done and the bills are checked by the adjuster. The company's option to repair is very seldom exercised.

After a serious fire, a building is often left with an accumulation of debris from the roof, or upper floors, which may so fill the building as to make it impossible to determine its real condition. It is well for the adjuster in such cases to negotiate an agreement under which the insured shall have the debris removed before the estimate of the damage is prepared. The removal should be subject to the supervision of the adjuster, or of some competent person in his employ. The cost of removing the debris should be recorded, and later made a part of the claim.

If the cost of repairs and the cost of removing debris do not together exceed the sound value of the building, or the amount of the policy, the cost of removing debris is collectible.

In the adjustment of a partial loss, it is necessary to determine sound value if the coinsurance or average clause is incorporated in the policy or policies.

**Adjustment Negotiations.**—In taking up the adjustment of either a total or a partial loss, the adjuster endeavors to reach an agreement with the insured on an amount that will reasonably represent the sound value in case of total loss, or the probable cost of making repairs in the case of partial loss. If the policies contain a coinsurance or average clause, both the sound value and the amount of damage must be determined. The negotia-

tions which take place during the adjustment will be determined by the method which the adjuster decides to follow in fixing the amount of loss. The methods that may be used are as follows:

1. The insured and the adjuster may make or secure separate estimates and compare them, discussing and adjusting any differences; or they may make a joint estimate while going over the property in company with each other.

In the larger cities the insured and the adjuster usually secure estimates made by contractors or builders and, after a comparison and discussion of differences, come to an agreement.

In rural sections and in the smaller towns and cities, where the property owners as well as the adjusters are sufficiently familiar with the cost of making ordinary repairs to estimate the cost with accuracy, a great number of losses are adjusted without the adjuster or the insured seeking the aid of a builder. Adjustments based on estimates of the insured and the adjuster are, however, usually made only when the simpler kinds of building construction are involved.

2. The insured and the adjuster may each select a builder with the understanding that the two shall examine the property and together estimate the loss.

If competent and reliable builders are to be had, this is the method which will most often produce an accurate and satisfactory adjustment. It is used in a number of cities where the relations between the public and the companies are satisfactory.

3. The insured and the adjuster may prepare specifications of necessary repairs, at times using the assistance of an acceptable architect, and call for bids, the insured agreeing to accept the lowest figure offered by a responsible bidder.

This method is rather complicated and is seldom used. If employed it will generally produce an accurate adjustment.

4. The insured and the adjuster may agree that a single designated builder shall estimate the loss, and that his figure shall be binding.

This method is not often used and should be avoided, because even the best estimators will occasionally make serious errors when working alone. The use of this method tends to put too much responsibility on the builder, who is compelled to work without any check, and may either overlook a necessary item of

repair, or make errors in his calculations detrimental to the insured or to the company.

5. The insured and the adjuster may agree that the property shall be repaired on a time and material basis, the work to be done under check with proper accounting for the cost, and that from the total cost there shall be deducted a proper allowance for depreciation.

This method will accurately determine the amount of loss and, while its use is generally confined to losses of small amount and losses in which otherwise temporary repairs would have to be made, it is particularly serviceable under the following conditions.

(a) *Lightning Damage to Masonry.*—When a chimney or other masonry work has been damaged by lightning, it is frequently impossible to determine how far the cracks extend until after the material of the surface courses has been cleared away. Contractors will therefore generally over-estimate the cost of repairing lightning damage to masonry in order to protect themselves against the possible cost of work not provided for in their original calculations.

(b) *Superior or Unusual Construction.*—This method may be used freely on losses involving fireproof or other unusual construction. With fireproof construction it is frequently necessary to clear away masonry and take out and replace damaged steel members. As it is exceedingly difficult to estimate with accuracy the cost of such operations, estimates will generally contain liberal allowances for contingencies which may not develop when the work is done. With other unusual construction there may be so little cost data obtainable that estimates will be unreliable. If a loss is settled on an estimated figure and the work is then contracted for by the owner on the basis of the estimate, the builder will make an abnormal profit on it. If, however, the insured contracts to have it done on a time and material basis, the saving will go into his own pocket. In either case the company's position will be the same, it will have paid out more than the cost of the work.

(c) *Losses in Shafts of Buildings.*—Losses involving damage to wiring and piping in the shafts of buildings should be adjusted by this method. Nothing but an actual taking out and replacement of the injured pipes, conduits, and wiring will determine

what has to be done and estimates in such cases are, therefore, almost always valueless.

(d) *Losses with Concerns That Maintain Their Own Repair Forces.*—Excellent results are also obtained by using this method in adjusting losses with large concerns which maintain their own working forces and are therefore able to make repairs at less than average cost. With such concerns this method should be used freely.

6. In case of total loss, the adjuster may accept the record of cost shown by a construction account, or by the original contract for the erection of the building and the supporting vouchers.

It is seldom possible to use this method because comparatively few buildings burn at a time when the records of their cost can be located. If this method is used, the adjuster must be careful to check the cost account, and eliminate items of expense which will be unnecessary if the building is rebuilt. This method cannot always be used with safety. The cost of erecting the building may have been excessive, or there may have been changes in prices, and there are times when reliable contractors can be found who will undertake to replace at less than the original cost.

7. The sound value of the building and the amount of loss thereon may be determined by appraisal, or reference, as provided in the policy.

This method is generally used following a disagreement between the adjuster and the claimant. In some sections of the country a large percentage of the building losses are appraised without any real effort to effect an adjustment before commencing the appraisal. The use of appraisal proceedings in these cases is really a variation of the second method here discussed, and the results obtained are generally satisfactory. Following a real disagreement an appraisal is ordinarily the alternative to litigation.

8. The adjuster may exercise the company's option to repair or replace the property.

This method of adjustment is very rarely used. If it is to be used the insured should be asked to file his proof of loss after which the repair, or the replacement, should be made. When the work has been completed the contractor, or repairman

employed by the adjuster, should have the property inspected by the insured, and the repairs or replacements accepted, taking from the insured as evidence of acceptance a certificate of satisfaction, commonly called a *satisfaction piece*.<sup>1</sup>

The great majority of building losses are adjusted by the first method discussed, *i.e.*, by a comparison of estimates. In many cases there will be no great difference in amount between the estimate presented by the insured and that offered by the adjuster. But as even the best builders, estimating independently of one another, will produce varying estimates, the adjuster spends a large part of his time analyzing and discussing differences. The difficulty of completing an adjustment is generally in direct proportion to the amount by which the estimates differ. If, in the opinion of the adjuster, the insured's estimate exceeds the probable cost of making necessary repairs, the adjuster should endeavor to isolate the excessive items and demonstrate that the work or expenditure stated is not necessary. If the estimate is properly itemized, so that it shows both the total and the unit cost of the work contemplated, the adjuster should be able to point out any item calling for more work than is necessary, and by making actual measurements to show the quantity of material really needed. Excessive prices should be demonstrated to be excessive by comparing them with prices for materials and labor prevailing in the locality.

The adjuster often finds it impossible to bring about an adjustment by dealing with the insured alone. In many cases the insured is unfamiliar with the method of making repairs, or the cost of materials or labor, and can only rely on figures given him by his builder. If the property involved is of complicated or expensive construction, the adjuster may himself be uninformed on the cost of materials required for repairs, or on the amount of work which various classes of mechanics can be expected to perform in a given length of time. The adjuster must, therefore, frequently deal with the insured's builder and, in cases of complicated construction, may find it wise to have his own builder discuss estimates with the insured's builder.

**Estimating.**—Many pages of the old manuals, or handbooks, dealing with adjustments consist of tables and other data designed

<sup>1</sup> See p. 364



to aid the studious adjuster in learning how to estimate building losses.

There are several methods used to approximate the value of a building, none accurate, but all serviceable. The *cubic-contents method* is the best of these. The adjuster will find on inquiry that buildings of like construction in a given locality are supposed to show a fairly uniform cubic-foot cost. In the days before the upheaval of costs, which began with the World War, there were a number of tables giving the average cubic-foot cost of ordinary buildings. These tables were then more reliable than are similar tables today. The cubic-contents of buildings with rectangular floors and walls, and with flat roofs, can easily be determined. But this is not the case with such irregular structures as dwellings of rambling construction and peaked roofs, or churches with towers and steeples. For this reason an adjuster should not rely on an estimate made by the cubic-contents method, except in cases where the margin between insurance and value is so great that a liberal allowance for error can safely be made.

Another means of valuation is the *floor-area method*. This is less accurate than the cubic-contents method, but, in connection with certain kinds of structures, is fairly reliable. In the year 1912, the ordinary cottage dwelling erected in southern Alabama or southwest Georgia cost approximately 75 cents for each square foot of floor space.

The *room value* is sometimes used to calculate the value of a building where the adjuster is satisfied that the loss is hopelessly total. Prior to 1914, miners' dwellings in the coal fields of Alabama were often estimated at \$125 a room by the coal companies, a figure generally sustained by construction accounts.

An adjustment based on a cubic-contents valuation should be supported by a statement giving the measurements of the building, the number of cubic feet, and cubic-foot cost. A floor-area valuation should state the measurements, the area, and the square-foot cost. A valuation by the number of rooms should give the measurements of the building, the number of stories, the number of rooms and the room cost.

*Detailed estimates*, covering all units of material and labor, are the only trustworthy guides for an adjuster where the loss does

not materially exceed the insurance, or where operation of a coinsurance or average clause is expected to reduce the amount to be paid.

There are a number of books from which a student can learn the principles of estimating building costs.<sup>1</sup> By combining study with observation of builders actually making estimates, the novice will soon develop the ability to estimate losses of moderate extent. The adjuster whose work is principally in the smaller towns and in the country should estimate most of the building losses he handles. Only where the amount involved is large, or the work of reconstruction complicated, should he employ a builder.

In country districts, the ordinary farmer is entirely competent to make repairs to any of his buildings, or to estimate what repairs should cost. He is familiar with the various building materials, and is accustomed to the use of tools. He can determine by measurements the quantity of material needed and knows by experience the length of time required for an ordinary job. The adjuster who spends enough time handling country losses to become familiar with them should acquire the information necessary to estimate them accurately. The simplest building construction is the rule in rural sections. This makes easy the problem of estimating.

The adjuster handling country losses will be free from interruption while at work, a condition which will enable him to give a degree of attention to his estimating seldom possible in the hurry of city work. The rural claimant will frequently sit down with the adjuster and, item by item, figure the probable cost of making repairs, or of rebuilding. An adjustment made by this method is usually accurate and satisfactory. The report of an adjuster who has made such an adjustment should embrace a detailed statement showing the separate items of repair, or reconstruction, and the estimated cost of each. A report submitted in this form will enable the company to check the adjuster's figures, and to compare the prices with the prices for similar items in the papers covering other claims in the same territory. The statement will show that the loss was estimated by considering separately each item of repair, or of reconstruction cost.

<sup>1</sup> See p. 310.

Such attention to detail will produce a more accurate estimate than lump-sum guesswork.

The adjuster who learns to make his own estimates will generally develop a routine to suit the work. As an estimate should reflect the condition of the property, it should not be prepared until a survey of all damage has been made. If the adjuster has a comprehensive idea of the loss before he commences to make a list of individual items of repair, he can in many cases shorten his work. It is generally best to make accurate measurements and notes which can later be developed into sketches. After the collection of complete data, the adjuster will be in position to calculate the quantities of the different materials needed.

When the necessary quantities have been determined, the prices prevailing in the locality should be applied. The prices should be those which prevail immediately after the fire, and which ordinarily would be charged the insured for material delivered to the job. These prices should be obtained from reliable sources so that the adjuster will feel safe in presenting them at the time he makes an offer of settlement.

After quantities and prices of materials have been determined the labor cost should be established. This cost should exclude any consideration of overtime charges as these are not proper except on repairs made to prevent further damage to the property. Wages will vary in different communities but will generally be approximately the same throughout a given region.

If there are unusual conditions, they must be given consideration. For instance, a charge is generally added to the cost of setting plate glass in order to cover the risk of breakage; after a conflagration there will generally be a rise in the prices of materials due to the sudden demand on the market.

In the larger cities, the varieties of construction and decoration are so great that an adjuster handling the general run of city losses can seldom acquire sufficient information to be a competent estimator on all kinds of buildings. It is, therefore, necessary to use builders on city losses to an extent not warranted in towns and villages. The situation in many of the cities is such that little attention will be paid to an adjuster's estimate unless it agrees with the estimate held by the claimant.

**Obsolete Buildings.**—The discussion of building losses has, up to this point, covered the ordinary useful structure which the owner would normally rebuild if it were destroyed by fire. There are, however, a great number of buildings which would never be rebuilt if destroyed, as they have become obsolete because of changes or improvements in building design or construction, or because the occupancy for which they were designed has ceased to be in demand or profitable. As an instance, the mansion type of dwelling, designed for a period when servants and fuel were cheap, is too expensive to be in demand today and is, therefore, difficult to sell or to rent. If such a dwelling burns it is rarely rebuilt. To rebuild with all the ornate woodwork and expensive joining, and to reproduce spacious halls and rooms, would entail an expenditure far beyond what it would cost to erect a modern dwelling much better suited to average needs, and much cheaper to heat and operate. Consequently, the total loss of an out-of-date mansion type of dwelling, does not necessarily burden the owner with a financial loss equal to the reconstruction cost, less physical deterioration. There are some cases where the land on which such a dwelling stands would be more valuable without the dwelling than with it. Adjustments involving such dwellings are matters of trade and compromise, as no method of valuation can be devised to work justice in all cases.

Of similar nature are total losses on brewery and distillery buildings, and the structures of any industry that can no longer operate profitably.<sup>1</sup>

**Depreciation.**—Buildings depreciate with age as the materials used in their construction deteriorate, or as new and more desirable types make older types obsolete. Deterioration commences almost immediately after the erection of a building, while obsolescence may be delayed for a long period. Depreciation is a negligible factor in losses involving new buildings, but a factor of great importance if old structures are involved. In such structures both deterioration and obsolescence have been at work.

The causes of deterioration in building materials are decay, corrosion, fatigue, and wear and tear. These causes are pro-

<sup>1</sup> See *McAnarney v. Newark Fire Ins. Co.* 159 N. E. Reporter 902. 70 Ins. Law Journal 760. C. of A., N. Y., 1928.

ductive of results in inverse proportion to the resistance offered by the materials themselves and the effectiveness of protective measures used to retard their action. The resistance a material ordinarily offers to a given deteriorating cause is determined by the inherent quality of the material. This resistance can be made most effective if the pieces of material used are free from faults or inferiorities, are so placed in the building as to be protected from excessive exposure to the deteriorating influence, and are thereafter cared for. A consideration of specific materials and the causes of their deterioration will illustrate this point.

Wood is the material most commonly used in building. It is a vegetable product subject to decay due to micro-organisms which require for their existence darkness and certain moisture conditions. The resistance which wood offers to decay will therefore be determined by conditions of moisture and sunlight. Moisture is absorbed more freely by porous, than by close-grained wood. For this reason woodwork exposed to damp earth should be made of close-grained wood, and individual pieces, free from incipient decay or inferior streaks in which moisture will accumulate, should be selected. The sills and joists of floors in proximity to the ground are exposed to the moisture emanating from it, and are peculiarly susceptible to decay. Usually they are placed so that they are always in darkness, a condition which makes decay more rapid. In the warmer sections of the country, many buildings are constructed without basements, the sills and first-floor joists being frequently only a few feet above the earth. In the South, pine is the wood most frequently used in building, and pine sills and joists are the rule. Since the heart of the pine tree is closer grained than the outer section, known as the sap, the best floor timbers in southern buildings are made of heart pine. Timbers that are part sap are inferior, as decay starts quickly in the porous sap unless the timbers are kept dry. To insure dryness in the space between the ground and the floor timbers, the foundation walls are pierced with openings through which air can circulate. Floor timbers properly selected and protected from prolonged dampness by this method of airing deteriorate slowly.

Another form of deterioration in wood often occurs if boards are exposed to the direct rays of the sun before they have

been properly seasoned. In such cases the boards will generally warp, and in doing so crack. Warped or cracked woodwork is unsightly. If badly warped, it may have to be replaced.

The decay of woodwork under the action of moisture is to some degree paralleled by the injury to iron and steel building materials when attacked by rust. Iron resists the attack of rust if it is free from impurities, but structural steel rusts easily. As rust will start quickly when moisture is present it is essential that ordinary ironwork or steelwork be protected by a grade of paint that will prevent rain or even the air from coming in contact with the metal. Moisture is always present in the air in varying degrees, according to weather conditions, and, because of this, even interior steelwork or ironwork will rust if not protected.

The rusting of steelwork or ironwork is only one of the processes of metallic decomposition which must be combated by builders and caretakers of buildings. Metallic parts exposed to the action of corrosive agents, such as acids and alkalis, are gradually eaten away. These agents may be present in liquids that corrode plumbing or tanks, or they may be in gaseous form. The gas given off by burning bituminous coal is the most common of the corrosive gases. This gas is particularly injurious to iron and steel and to galvanized sheets or wires.

The three causes of deterioration so far considered produce their results by working a visible decomposition of the material on which they operate. Shock is another cause of deterioration in metal, but it operates without giving any visible evidence of its effect until a fracture occurs. Shock causes metal fatigue, often termed crystallization. Fatigued metal gives no evidence of its condition until it breaks under a stress which the metal would have resisted before crystallization occurred. Rails, trestle members, bridge parts, and other steelwork subject to repeated stress and shock tend to crystallize, and finally fail.

Deterioration of building materials may also result from wear and tear by the elements, or from the use made of the building. The elements are always exerting a deteriorating influence on exposed material. Sunlight, rain, and changes of temperature,

deteriorate the materials they reach, while wind may work injury by shaking or swaying a building. The chemical action of the sun's rays, particularly in the southern sections of the country, gradually deteriorates paint, while the direct heat of the sun exerts an unfavorable influence on the shingles and some other kinds of roofing by drying out protecting gums or oils. Rain finds its way through cracks and furnishes the moisture necessary to start decay, or is absorbed by porous stone or brickwork. If freezing weather follows, the stone or brickwork will suffer, due to freezing of the absorbed moisture. Frequent repetition of this kind of injury may badly disfigure the materials. Properly made brick suffers very little from the action of rain and cold, but porous mortar or the softer and more porous stones will in time show serious injury. Rain also rusts and destroys metal cornices, gutters and down-spouts, unless these are made of copper or lead. In addition to the damage done by sun, rain, and cold, heavy winds will occasionally sway a poorly braced building until the plastering is cracked, while severe wind stress may permanently strain a building.

Deterioration, due to wear and tear of the elements, is accompanied by deterioration due to the use to which the building is put. If heavy loads are constantly trucked over the floors, they will become badly worn and require frequent repair or replacement. If the floors are not properly supported or braced, vibration from the operation of machinery may dislodge plaster, and even piping or other equipment attached to walls and ceilings. If water is frequently used in the building and is splashed on wooden floors, or leaks through them, not only will the floors suffer, but plastering or paint on the walls or ceilings below will also be injured.

Interior paint, wallpaper, and other decorations lose their freshness and deteriorate in time. The rate of deterioration will be accelerated by smoke or dust, and, in unscreened houses, by fly specks.

The adjuster, seeking to inform himself on the deterioration of building materials, should study some of the numerous tables<sup>1</sup> which analyze the normal depreciation of a building by showing the expected life of each component part. He should also take

<sup>1</sup> See p. 310.

occasion to note the conditions of the buildings with which he deals and learn to look for the particular kind of depreciation ordinarily severe in a given structure. For instance, shingle roofs on buildings in hot climates suffer severe depreciation.

The adjuster should also learn to look for signs of the care and attention that will retard the progress of deterioration. Thus, exposed woodwork is preserved by regular painting, as is also the surface of iron and steelwork. Plastering and interior finishing will long remain sound in a building that is weather-tight, but will deteriorate badly if leaks in the roof go unrepaired.

There are some parts of a building, however, which no amount of care will prevent from deteriorating much more rapidly than the other parts. Plumbing and heating systems are probably the best examples. Ordinarily these fail and must be renewed before the rest of the building shows appreciable wear.

Leaving the subject of deterioration, and taking up that of obsolescence, it is important to note that changes have taken place with great rapidity in our methods of building. Not only has there been a change in exterior lines in the past 25 years, but there has come about such rearrangement of interiors that present-day structures are far more desirable than older ones. Because of this, the older ones, when destroyed, are seldom rebuilt on their original lines.

The march of progress has left behind many types of buildings which cannot be adapted to changed manufacturing needs or present requirements. Entire industries have become unprofitable because of changes in methods or the habits of people. Buggy factories and distilleries have almost become curiosities, while in many towns picture theatres have closed the older theatres and opera houses.

**Book Depreciation.**—If a building owner maintains books of account in which he enters charges for depreciation against his separate buildings, the adjuster should familiarize himself with the owner's method of determining the charges before accepting them as correct. Such charges do not always represent the actual depreciation of the property. If the charges are based on an arbitrary writing down of value they may be greater, or less, than the actual depreciation. The accounting method of writing off the value of property over a period of years,



known as "amortization," is not to be confused with true depreciation.

**Building in Process of Erection.**—After the construction of a building has been planned, a fire may occur while building materials are being assembled on the site. In adjusting a loss on building materials, the adjuster will follow the procedure outlined for personal property.<sup>1</sup>

If a loss occurs after the framework has been raised, the adjuster will handle the loss as a building loss.

**Betterments and Improvements.**—After a building has been completed, it may be leased to a tenant who will install improvements to suit the needs of his occupancy. If a loss occurs involving the improvements, the adjuster may be called upon to adjust both the loss to the building and the loss to the improvements. The interest of the tenant may be such that the tenant's loss should be handled according to the procedure outlined for losses involving lessors and lessees.<sup>2</sup>

**Demolition of Building.**—The owner of a building which is to be demolished ordinarily has in expectation no greater return from the structure than the rent to be collected during the remainder of its life, plus the salvage value of the building material. It would therefore seem that, if a building burns after it has been definitely decided to wreck it, the owner's loss should not exceed the return he had expected. In the few cases passed on by the various appellate courts this theory of expected return has not received judicial favor. Possibly the courts eventually will adopt it, now that the New York Court of Appeals has departed from the former judicial theory of valuation of obsolete structures.<sup>3</sup>

If a building is actually sold to wreckers who receive no title to the land, the building becomes personal property, as the sale effects a severance of the building from the realty. If a loss occurs under this condition, the salvage value of the building is the measure of the wrecker's loss.

<sup>1</sup> See Chapter v, p. 65.

<sup>2</sup> See Chapter x, p. 194

<sup>3</sup> *McAnarney v Newark Fire Ins Co.* 159 N. E Reporter 902. 70 Ins Law Journal 760. C. of A., N. Y., 1928.

**Appraisals.**—If the adjuster cannot negotiate an adjustment at a figure approximating the correct amount, he should proceed to determine the loss by appraisal. Appraisals of building losses generally result in satisfactory awards.

**Final Papers.**—The original estimate presented in support of the insured's claim should be forwarded with the proof of loss, or should be incorporated in the statement which the adjuster attaches to the proof. Any estimate which the adjuster prepares, or has prepared by a builder in his employ, should be handled in the same fashion. If the loss has been settled by accepting the record of repairs actually made, an account should be prepared showing the bill, or bills, rendered to the insured. If a loss is settled on the basis of a construction account, or cost record, the adjuster's statement of loss, or his report, should show in detail the data which he examined.

## CHAPTER V

### PERSONAL PROPERTY

**General.**—All tangible property which is not lands or buildings, or parts of either, is personal property. Personal property may be divided into two classes, one comprising articles kept for use; the other, articles kept for sale. The ordinary groups of articles that fall into the first class, and are commonly insured, are:

Household furniture.

Mercantile and office furniture and fixtures.

Machinery, equipment, and supplies.

Farm equipment and produce.

Contents of libraries, schools, churches, art galleries, and other miscellaneous occupancies

The groups of articles that fall into the second class are:

Stocks of merchandise.

The foregoing classification has been adopted because there are some features in which adjustments of losses on stocks of merchandise differ in their details from those involving personal property of the first class. Among these are the greater importance which attaches to books and records, and the occasional practice of selling damaged merchandise in order to determine the amount of loss on it. This chapter will be devoted chiefly to losses involving the first class of personal property; the following chapter, to those involving stocks of merchandise.

**Effects of Fire.**—Personal property may be destroyed by fire, or be injured by heat, water, or falling debris. If of a combustible nature it may be obliterated, as in the case of articles of wearing apparel, draperies, or household linens. If incombustible, it may be reduced to scrap, but still retain its identity, as often happens with such articles as sewing machines or metal beds. Heat will scorch, blister, melt, or crack many articles. Water dissolves some substances, weakens glue in furniture,

often causes colors to run or fade, and starts fermentation, mildew, or rust. The collapse of a burning building frequently crushes the contents.

**Measure of Loss.**—When personal property is damaged or destroyed, the owner usually sustains a loss limited to the cost of repairing or replacing it. If the articles were in good condition at the time of the fire, were not obsolete, and were of intrinsic as contrasted with sentimental value, their cash value will ordinarily be equivalent to the difference between the cost of replacing them and the depreciation they had undergone prior to the loss. If they have not been destroyed, the cost of restoring them to their condition before the fire will be a proper measure of the amount of damage.

**Protection from Further Damage.**—Personal property is usually kept in buildings and is, as a rule, subject to damage if exposed to the weather. When fire occurs, flame, heat, smoke, or water, or chemicals used by the firemen may do immediate damage to both building and contents. Sometimes one will be damaged, and the other unharmed. After the fire has been extinguished, the walls and roof of the building may be found to be injured so that they will admit rain. The contents may be untouched by fire, but may be wet from water used by the fire department. If the scene of the fire is in a district that has no fire department, the insured and his neighbors may remove the contents while the fire is burning, scratching or breaking some of it in the process. Contents so removed will generally be piled about indiscriminately on the ground. In any of these cases further damage is likely to occur if the property is left alone.

Protective measures must be adapted to the situation. Buildings which are open to the weather, so that the contents are exposed, should be made weatherproof by temporary or permanent repairs, unless so badly damaged as to make temporary repairs too expensive, or permanent repairs too slow to serve the purpose of protecting the contents. In such cases, all valuable articles should be removed to another structure for protection and reconditioning. In similar manner, the property moved out because of being endangered by fire should be put under a roof as soon as possible.

When the property has been made safe from the weather, the individual articles should be given the treatment they require.

Personal property that has been partly burned, or scorched, is not, as a rule, subject to further damage if left undisturbed. Probably the single exception is livestock. Animals are sometimes rescued from fire with burns or scorches which may develop infections, and result in impaired usefulness or death unless treated promptly. Most of the damage to personal property that occurs after the fire has been extinguished is due to water or moisture. Articles left wet or damp usually deteriorate. Equipment made of the ferrous metals will rust if not dried or oiled; wooden furniture will swell, crack, warp, or part at glued joints unless wiped off and dried promptly; clothing, draperies, rugs, and other textile products will mildew or rot; and foodstuffs will spoil if left wet or damp. The usual methods of saving the different kinds of personal property from further damage will be outlined in the sections dealing with the specific property.

If the adjuster arriving at the scene of the fire finds that the insured has not commenced to care for the damaged articles, he should see that the work of saving them is started at once, and pushed to a conclusion as rapidly as possible. If the insured and his family, or his organization, cannot supply the manpower to save the property, it may prove expedient for the adjuster to engage the services of a salvage company, to hire labor, or call in such assistance as can be rendered by furniture movers, carpet cleaners, laundrymen, or machinery dealers, and thus hasten the work. In many cases the insured is directed to hire such persons, and their charges, by agreement, become a part of the claim.

**Separation, Putting in Order, Inventory.**—The requirements in case of loss to personal property are stated in the policy as follows:

The insured . . . shall forthwith separate the damaged and undamaged personal property, put it in the best possible order, furnish a complete inventory of the destroyed, damaged, and undamaged property, stating the quantity and cost of each article, and the amount claimed thereon.

This requirement seeks to accomplish the following results:

1. To eliminate from consideration, articles that are undamaged.

2. To present the property for inspection in the condition that will make its remaining value most apparent.

3. To produce an inventory which shall be the basis on which the loss is determined.

All of the steps named in the requirement are necessary when the property is in part damaged and in part undamaged. The details of each step will be explained in connection with the specific classes of personal property enumerated in the first section of the present chapter, and discussed in separate sections.

**Values and Damage.**—The entries on the insured's inventory should represent correctly the quantity and cost of the articles, and the amount claimed thereon. If the inventory is correctly made, and the amounts claimed are proper, the aggregate cost of the articles, less a proper depreciation, will represent the sound value; and the aggregate claim, assuming depreciation has been considered, will represent the loss and damage. The inventory in personal property losses thus takes the place of the estimate in building losses. The adjuster must satisfy himself by checking or verifying the inventory that it is correct or that it is incorrect; if the latter, he should point out the incorrect entries to the insured.

After a fire, personal property may be or may not be in evidence. If it is in evidence it is said to be "*in sight*;" if not, it is said to be "*out of sight*." It may be in sight and still of some value, or it may be worthless. If it is out of sight, it is, of course, a total loss. Fire, water, or falling debris may destroy the value of articles without destroying their identity, or may do some partial injury which can be remedied by repairs.

When dealing with property in sight, the adjuster proceeds by comparing the entries on the insured's inventory with the articles themselves, this procedure assisting him in forming an opinion of the sound value of each, and of the damage it has suffered. If he believes the entries show the proper quantities, costs, extensions, and amounts claimed, he agrees with the insured, and completes the adjustment by fixing a fair depreciation. If, however, he does not believe the entries are correct, he tries to convince the insured that they are not, and advances his own ideas of what the correct figures should be. Generally he manages to settle differences of opinion by argument or

discussion, but is occasionally compelled to submit a case to appraisal.

When dealing with property out of sight, the adjuster must satisfy himself that the articles were destroyed by the fire before proceeding to determine their actual value. It is incumbent on the insured to prove his loss, and to do so he may offer his own statements, the testimony of others, or such documents as bills, canceled checks, or contracts of sale. The adjuster is expected to test any evidence offered by the insured, and to search for additional evidence which will either substantiate or disprove the claim. After determining to his own satisfaction what articles were destroyed, he should proceed to discuss the questions of cost and depreciation with the insured, as in the case of articles in sight.

**Adjustment Negotiations.**—The method to be used in fixing the sound value and loss and damage when personal property is involved may be any one of the following:

1. The insured and the adjuster may make or secure separate estimates and compare them, discussing and adjusting any differences, or they may make a joint estimate while going over the property in company with each other.

This is the method most frequently used. The adjuster examines each article listed, or each lot, if there are a great number of articles, checks such figures on the inventory as he finds to be in order, and enters different figures when he thinks those of the insured are out of order. Sometimes he discusses each item with the insured as he reaches it, and tries to effect an agreement on proper figures for each. At other times he goes through the whole inventory, noting his figures wherever they disagree with those of the insured, and only discusses the totals. In many cases the insured will prepare an inventory, but will omit stating his claim, expecting to discuss the items with the adjuster before concluding what amount to claim on each. In still other cases the insured and the adjuster will together make up the inventory, agreeing as they go along on the quantity, value, and damage to be entered for each item. In many losses involving the necessity of repairing articles, both the insured and the adjuster will have estimates prepared by persons competent to make the repairs, and will compare these.

2. The insured and the adjuster may each select an expert with the understanding that the two shall examine the property and together estimate the loss.

This method is not often employed. It is, however, generally productive of equitable adjustments when capable experts are used. It is most serviceable when the property involved is of such a nature that technical knowledge is needed to estimate its value, and determine the damage it has sustained. In such cases considerable time is saved which would otherwise be expended in acquainting both insured and adjuster with details which both would then have to discuss in order to settle differences of opinion.

3. The insured and the adjuster may agree on items of repair or replacement and submit these to proper persons for bids.

This method is not often used, except in connection with small claims. In these the adjuster will look at the articles and ask the insured to have a repair man submit a price for such repairs as insured and adjuster agree are necessary.

4. The insured and the adjuster may agree that a single designated expert shall estimate the loss, and that his figure shall be binding.

This method is rarely used, and is unsafe, because even the most reliable experts will occasionally make serious errors when working alone. The use of this method puts too much responsibility on the expert, who may overlook necessary items or make miscalculations detrimental to the insured or detrimental to the company.

5. The insured and the adjuster may agree that the property shall be repaired or reconditioned with proper accounting for the cost of doing so, and that from the total cost there shall be deducted a proper allowance for depreciation.

This method is frequently used in connection with small losses when the adjuster is satisfied that the claimant and the repairman can be relied on to confine the work to a restoration of the fire damage, and to keep the cost within the fair price for the work.

With one important modification, the method becomes adapted to some of the most difficult adjustment problems in connection with personal property. This modification consists in an expansion of the agreement to provide that a representative of the company shall supervise the repairs as they proceed, and shall



be consulted on all doubtful points. The method modified in this manner is now used with great effectiveness in handling losses involving the dismounting, examination, and repair of complicated machines and electrical equipment, losses which can rarely be estimated with any degree of accuracy owing to the various contingencies that may be encountered when the property is being repaired. Typesetting machines, steam turbines, generators, and telephone switchboard equipment are examples of property on which the amount of loss can seldom be estimated with accuracy, and which when damaged should ordinarily be repaired under check when the insured can be relied upon to recognize his obligations under the insurance contract.

6. In case of total loss the adjuster may accept the record of original cost as shown by invoice, contract, or other voucher.

In the case of comparatively new property the use of this method will generally produce the proper result. In the case of property bought over a period of time it will be necessary to allow for price changes, replacements, and also for inaccuracies in the record itself. Thus the invoice covering a new machine, destroyed in a receiving room before it was even unpacked, would be a conclusive record of its cost; but a machinery account extending over a period of 10 years might not correctly show the cost of the machinery in the plant at the time of the fire.

7. The sound value and the amount of loss and damage may be determined by appraisal or reference as provided in the policy.

Losses on personal property are seldom adjusted by this method unless it is utterly impossible for the insured and the adjuster to agree.

8. The adjuster may exercise the company's option to repair or replace the property.

This method of adjustment is seldom used except for very small losses. If it should be chosen for use in connection with a loss of any size, the adjuster should see that the insured files his proof of loss, and that his inventory clearly describes the articles to be repaired or replaced. After repair or replacement, the insured's acceptance of the performance should be evidenced by having the person who made the repair or replacement furnish the adjuster with a certificate of satisfaction signed by the insured.

9. The adjuster may exercise the company's option to take all or any part of the articles on which claim is made, agreeing that the company shall pay the insured their agreed or appraised value.

The use of this method is generally confined to the adjustment of losses involving stocks of merchandise. It is occasionally employed to dispose of controversies over damages to rugs or other articles of household furniture. Its use should be avoided unless it promises a favorable result.

10. The adjuster may agree with the insured on the sound value of the property, arrange to have the salvage sold and the net proceeds paid direct to the insured, thus fixing the amount of loss.

As this is nothing more than a different form of the method just previously described, the remarks applying to that method apply here.

**Final Papers.**—As the policy prescribes that the insured shall make an inventory of personal property, the adjuster is expected to send the inventory to the company when the adjustment has been completed. If the loss is small, affecting only a few articles, the inventory may be written directly on the proof of loss. If bills or invoices are presented to substantiate the claim, the originals, or copies or abstracts of them, should accompany the adjuster's report. If the loss has been determined by appraisal, the original award should be included among the final papers.

**Household Furniture.**—The usual contents of a home are insured under the general term "household furniture." The articles generally enumerated by the various forms that have been developed by agents and brokers are:

Bedding	Cooking utensils
Beds	Crockery
Bicycles	Curtains
Books	Draperies
Bronzes	Engravings
Carpets	Family stores
China	Fuel
Clocks	Furniture

Glassware	Rugs
Guns	Scientific instruments
Jewelry	Sewing machines
Linen	Sporting implements
Mirrors	Statuary
Music	Tools
Musical instruments	Toys
Objects of vertu	Traveling equipment
Paintings	Umbrellas
Parasols	Walking-sticks
Pianos	Watches
Pictures	Wearing apparel
Plate	Works of art
Plated ware	

All articles of household furniture are susceptible to injury by the action of flame or heat, and can be consumed or reduced to junk value by fire. Most of them may also be broken, scratched, torn, or crushed in the confusion of a hurried removal when endangered. Water does immediate injury to such things as engravings, family stores, music, certain musical instruments, paintings and pictures, scientific instruments, and many works of art. If thoroughly wet and left without attention, almost all household articles will suffer further damage with the possible exception of china, certain cooking utensils, crockery, fuel, glassware, plate, plated ware, and statuary. Furniture, made of wood, the frames of engravings, paintings, and pictures, musical instruments, such as banjos, guitars, violins, and pianos, and the wooden parts of sewing machines, will warp or crack if soaked. Bedding, curtains, linen, rugs, and wearing apparel, will mildew or rot if wet and not dried, unless the temperature is quite low. Any articles made of iron or steel, except the new stainless steel, will rust if allowed to remain wet and exposed to the air.

*Protection from Further Damage.*—Wet bedding should be taken off bedsteads and laid flat to dry. If the weather is fine, mattresses, feather beds, and pads should be spread out on boards, or on clean grass, and turned as often as the surface exposed to the sun becomes dry. Sheets, blankets, quilts, comforts,

and spreads should be hung up so as to get the maximum amount of sunshine and wind. Curtains, draperies, linen, and wearing apparel should be treated in the same fashion. Extra clothes lines may be strung about the yard and the drying, under good weather conditions, will be completed quickly. Carpets and rugs must be dried by being spread out flat, unless there are facilities for hanging them by the edges. If they are hung over a line the line will often leave a mark in the fabric which will never disappear.

Books, engravings, mirrors, music, paintings, pictures, sporting implements, and traveling equipment, should be wiped off and spread about to dry.

Wood furniture should be wiped as dry as possible.

Metal furniture, guns, sewing machines, and mechanical appliances, should be wiped dry and oiled to prevent rusting.

Clocks, pianos, and scientific instruments, usually should go to the repairers as speedily as possible.

If there is enough floor space available in portions of the house that are safe against the weather, the work of saving the property can be done on the premises. If the roof has been burned through, immediate roof repairs, or a temporary covering with tarpaulins or tar paper may be advisable. If the entire roof is gone, it may be best to remove the furniture to another building.

*Separation and Putting in Order.*—If the work of protecting wet household furniture from further damage is properly handled, the damaged and undamaged articles will be separated as the work proceeds. If the damaged articles are not worth saving, they should be put where they will not endanger undamaged property because of their damp or dirty condition. Charred articles will smut anything they touch, and mildew starting in wet susceptible articles will, in warm, damp weather, spread to sound articles of similar nature in the immediate vicinity. Articles on which there is a total loss must be kept until they have been inventoried, and their value agreed upon. Property that has undergone removal needs sorting, and such matching up of separated parts as replacement of drawers in dressers, setting up of bedsteads, and assembling of sets of books. If part of the contents of a home is saved by removal, and the

rest burns, the work of arranging what is saved eliminates the uncertainty of whether specific articles were burned in the fire, or are hidden in the salvage.

If the loss has been caused by removal only, and the home escaped injury, or has been made safe and habitable after the fire, the furniture should be wiped off, moved back, and set up just as it was before the fire. If only part of the house can be made safe, the furnishings of each room should, as far as possible, be kept together when moving them into the available space.

*Inventory.*—If the property is a total loss the inventory may simply enumerate each article, or set, and give the actual or replacement cost of each. But if the inventory is to include damaged articles, the amount claimed on each should be shown in a separate column. Double-column paper is therefore desirable for taking inventory.

Much time will be saved in the actual adjustment if the inventory is taken in some definite order. Most inventories of property in sight are checked against the actual articles when the adjuster examines the property. Therefore the entries should be in such order that the checker can pass from item to item with the least possible delay or inconvenience.

If the furnishings are in the rooms where they belong, the inventory may be taken by listing in some logical order the contents of each room. If the property has been moved to a warehouse, or other place of temporary storage, it may be well to list the furniture proper as one group, floor coverings as another, pictures as a third, bedding as a fourth, linen as a fifth, clothing as a sixth, china and glass as a seventh, and to make such other groups as may be necessary to complete the work.

If much property is to be inventoried, numbered tags should be attached to each article, or set. The property should then be listed in numerical order, as this will greatly facilitate the checking of the inventory, or the finding of any article that needs special study or attention.

*Values and Damage.*—The actual or replacement cost of new furniture, furnishings, or clothing can often be established by paid bills, or by the accounting records of stores where the purchases

were made. If such evidence is not available, but the property is still to be seen, the replacement cost can be quite accurately estimated by dealers who sell similar articles.

But if the property has been obliterated, and there is no documentary evidence of its cost, the testimony of the members of the household is usually the only evidence that can be presented to support the prices stated on the inventory. Occasionally such testimony can be supplemented by that of neighbors, or of others who have had access to the premises and who were familiar with the furnishings.

In dealing with damaged property the amount claimed on each article should represent the probable cost of restoring it to its condition immediately preceding the fire, or if it cannot be restored, the probable loss of value due to the fire. Cost figures can be prepared by cabinet makers, upholsterers, mattress renovators, cleaners, and others of like occupation.

An active adjuster is expected to keep himself posted on the value of staple articles of furniture in his territory, and the cost of repairing or reconditioning.

*Depreciation.*—Depreciation should be a substantial item in most adjustments involving household furniture. The heavy articles, such as beds, dressers, tables, and the like, depreciate slowly. So does good silver. China and glassware depreciate only by change of style, chipping, or breaking. Oriental rugs, woven in the days of vegetable dyes and cold dyeing, give long and excellent service. The life of all floor coverings is largely dependent on the wear they receive. They will last much longer in spacious homes occupied by small families with high standards of housekeeping than in crowded houses where there is frequent going in and out. Linen and wearing apparel disintegrate under the friction and stress of use and the wear and tear of washing and cleaning, and lose value as styles change. The flimsy fabrics of much present-day ready-to-wear apparel will not last a single season.

*Appraisals.*—Appraisals of household furniture losses have not shown regular results. They have been particularly erratic on out-of-sight property. Experienced adjusters seldom appraise such losses. On property in sight there is a fair chance for an accurate award.

*Final Papers.*—The insured's inventory, original or duplicate bills, or contracts of installment purchase are the supporting papers which should ordinarily accompany reports on household furniture losses. In case of appraisal, the award should be forwarded

**Mercantile and Office Furniture and Fixtures.**—Mercantile and office furniture and fixtures usually consist of some of the following:

1. Counters, cupboards, cabinets, partitions, shelving.
2. Safes, stoves.
3. Adding and calculating machines, addressographs, check-writing or perforating machines, multigraphs, typewriters, and electric fans.
4. Surgical instruments, photographic equipment, drawing instruments, engineers' equipment
5. Carpets, linoleum, oil cloth, rugs.
6. Printed books, stationery.
7. Clips, ink, mucilage, pens, pencils.

In large stores or offices there may be an even greater variety of articles, but, if so, they can generally be classified as related to one of the seven listed groups.

All such property is subject to fire damage, injury in case of removal, or deterioration if left uncared for after wetting. Even heavy safes are sometimes reduced to the value of scrap metal in serious fires, particularly if located on one of the upper floors of a building, the joists and girders of which are wood. If a fire gains enough headway in such a building, the floors collapse, precipitating their timbers, boards and anything that may be standing on them into the basement or lower stories, where sufficient heat will be generated to warp the outer walls of the safes. While the insulation between the outer and the inner walls will generally preserve books or other contents from destruction, the heat may be sufficient to damage the safe itself beyond repair.

*Protection from Further Damage.*—The work of preserving furniture and fixtures from further damage should follow the general plan outlined for household furniture. Particular attention must be given to wet adding machines, typewriters, and other mechanical appliances. In cities and towns where

repair men are to be had, such articles should be sent out for overhauling with the least possible delay.

*Separation and Putting in Order*—If, after being dried and otherwise made safe against further damage, the property is arranged as it was before the fire, it can generally be inventoried to be best advantage.

*Values and Damage*.—In large, well-managed offices and stores, there will generally be found a furniture and fixtures inventory made at the end of the last fiscal year, and a furniture and fixtures account in the books. The year end inventory will be of material aid in pricing the articles on the inventory made after the fire, while the account may serve as a rough indication of total value. In small establishments these records are seldom kept. In the absence of records, the inventory must be priced according to the actual appearance of the articles in sight, using, if necessary, the assistance of a dealer in store or office equipment.

If the burned property cannot be identified, the furniture and fixtures account, or annual inventory, will be most useful in establishing values. If neither account nor inventory is to be had, the existence and value of the articles must be determined from the testimony of the insured and his employees, and a consideration of the size and general repute of the business.

The cost of repairing damaged articles can be estimated with a fair degree of accuracy by the various shops that handle such work.

*Depreciation*.—Depreciation is quite rapid on mechanical equipment and floor coverings. Improvement in mechanical equipment is going on at such a rapid rate that much loss in value is due to obsolescence, even though the machines function properly. Heavy articles, such as counters and shelving, depreciate slowly. Printed books are depreciated by the appearance of new editions. Stationery and supplies are usually worth the cost of replacement unless they have been carelessly stored or handled.

If the books of a business are investigated in connection with a claim on furniture and fixtures, the adjuster will sometimes find that a theoretical depreciation has been charged against the furniture and fixtures account which is quite at variance with the actual depreciation. Some accountants consider it good practice



to depreciate, or write down, the furniture and fixtures account as rapidly as the financial condition of the business will permit, their reason being that furniture and fixtures cannot easily be sold for cash except at greatly reduced prices. Some concerns go so far as to write down, or depreciate, the account to \$1.00.

The adjusters should be careful, therefore, to distinguish between theoretical or "book" depreciation, and actual depreciation.

*Appraisals.*—Appraisals of furniture and fixture losses have usually resulted in equitable rewards.

*Final Papers.*—Final papers should consist of the insured's inventory, a copy or abstract of the furniture and fixtures account, or the estimates secured from dealers or repair men. On mechanical equipment, hurried out for repair before the setting in of rust, the actual bills, or at least their totals, should appear in the adjuster's statement. In case of appraisal, the award should be forwarded.

**Machinery, Equipment and Supplies.**—Machinery, equipment and supplies include the mechanical equipment of shops, factories, and plants. Such equipment has undergone tremendous development in the past half-century, always at an accelerating pace. So many machines are now in use, and so many combinations of machinery are necessary to insure economical production in the various industries, that to list all the articles which might be covered by a policy insuring machinery is impossible. Any article or mechanism used in the production, distribution, or use of power would be included.

Machinery is generally made fast to the floors, walls, or ceilings of the structure housing it. The majority of machines are constructed of metal parts. There are, however, many that combine metal, glass, porcelain, stone, leather, rubber, cloth, and possibly other materials in their make-up.

All machinery is subject to direct fire damage, breakage due to falling timbers or other debris, and deterioration following wetting unless properly handled. Very few attempts are made to remove machinery when threatened by fire. Massive machinery will sometimes go through severe fires with little damage. Enough heat, however, will reduce any machine to scrap value, particularly if water is played on it while hot, the sudden contraction often cracking the metal. All metal parts expand under

heat, and if the cooling is not uniform the parts may be badly warped. Bearings made of babbitt metal will melt at a temperature of approximately 750 degrees Fahrenheit. Stone, porcelain and glass crack under heat. Belts, aprons, rolls, and sieves made of leather, fabric, rubber, or cloth, burn easily.

*Protection from Further Damage*—Wet machinery needs prompt attention. Belts should be removed from pulleys and cleaned of all dirt. Wet machines should be wiped as dry as possible, and if safe against rain, or the drip of water from upper floors, or broken pipes, should be liberally slushed with a heavy cylinder oil to stop the formation of rust. If there is danger of further wetting, a heavier grease is necessary. Lubricating grease or compound will give the necessary protection. Spare parts or small tools may be put into wire baskets and dipped into barrels of oil for quick greasing. Electric motors or generators should be cleaned of dust, charcoal, or fallen plaster, and simply covered with tarpaulins if there is danger of further wetting: no greasing is to be done. Cloth or fabric aprons that absorb moisture should be stripped from their machines and dried. Machines with many small and delicate parts should be dismounted as quickly as possible to facilitate the work of checking rust. A wet linotype, or a knitting machine will be undamaged if promptly taken apart, dried, cleaned, greased and assembled. Left until rust has made the small parts stick together, the same machines will require a great amount of labor, and some of the parts may have been so roughened that new ones will be required.

*Separation, Putting in Order, and Inventory*.—Because of its fixed position there is little separating to do in the case of machinery proper. Spare parts, tools, dies, and such movable articles should be matched up, counted and tagged, or at least grouped to make checking easy. Prices for the inventory should be taken from the records of the business, bids for replacement, or the memory of the owner, if records are destroyed or missing.

*Values and Damage*.—If the equipment is in sight, the cost of replacement can be checked by calling in men who deal in the particular kind of machinery. Well-managed plants generally keep good records of their equipment, from which it is often possible to determine the date and price of each purchase. If this much detail is not available, there will at least be a machinery

inventory, or a machinery account, similar to the records discussed in the section dealing with furniture and fixtures.<sup>1</sup> In small or old plants there may be no records. At times the records will have been so handled by the accountants that they will be of little real value in checking a physical inventory. If the original machinery invoices have been destroyed or discarded, and the machinery account has been written down at intervals, and there has been no physical inventory taken for some years, there may be a very wide difference between the footing of the machinery account and the actual value of the machinery. It is the tendency of prosperous concerns to write down their machinery more rapidly than it actually depreciates. Concerns that are not prosperous adopt the opposite course.

If the equipment is too badly smashed or burned to permit an accurate physical inventory, the records assume greater importance. If they are in sufficient detail to enable the owner or adjuster to compile from them a list of the machines and equipment, this can be developed into an inventory by checking it against the floor space and obtaining prices from dealers or machinery catalogues. In some large losses it may be wise to employ a competent engineer to make a plan of the plant, locate the machinery, price it, and verify its existence from any evidence which may be available.

In all machinery claims the adjuster should bear in mind that the cost of delivering a machine, and also the cost of setting it up is to be added to the invoice price in order to determine its replacement cost.

Direct fire damage to machinery speaks for itself. There are many claims for damage due to heat which, on careful investigation, are found to be unwarranted. A claim frequently made is that certain parts of the machine have had the temper drawn. This may be true, but is always a proper subject for investigation. The amount of heat to which the machine has been exposed can often be approximated by a careful observation of the immediate surroundings, as well as the small parts, grease cups, and bearings of the machine itself. If paint on the wall is unblistered, nearby wood unscorched, the babbitt bearings not melted, and the grease still in the cups, it can be assumed that

<sup>1</sup> See p. 78.

the degree of heat about the machine was not great. Some attention should also be given to the component parts of the machine. Cast iron, machine steel, wrought iron and copper do not take tempering. In many cases it will be found that the only tempered parts of a machine are the springs. Claim that a machine has warped should be tested by having gauge measurements made if necessary.

The cost of repairing damaged machinery is usually a matter for experts. An adjuster who handles a succession of losses on the same kind of machinery will, of course, become proficient in estimating such costs. Minor machine damages require the replacement of light exposed parts, occasionally only cleaning up and adjusting. Broken castings must be replaced, or welded if the metal will permit. Bright parts need polishing and sometimes, machining. Warped rods, braces, or parts made of malleable metal may be straightened. Melted bearings must be rebabbitted.

There are two kinds of mechanical losses which, because of their complicated nature, are usually settled by having the actual repairs made, and subtracting proper charges for depreciation from the cost of these. The one is telephone equipment, the other electric generators of large size. It is practically impossible in the case of either to tell just what must be replaced, without doing the actual work of dismounting, examining, and replacing.

*Depreciation.*—Wear and tear, obsolescence, and metal fatigue are the principal causes of depreciation in machinery. On heavy machinery wear and tear frequently amount to very little. There is a hoisting engine at Wilkesbarre, Pa., built in the 1870's, which is still giving perfect service. The De Witt Clinton, one of the first American locomotives, was restored by the New York Central and made to function in an exhibition at Harmon, N. Y. But on both engines there is a depreciation due to obsolescence which makes them unsalable except as curiosities. As invention becomes more fertile, depreciation due to obsolescence tends to outrun that due to wear and tear. In whole industries there are mechanical units or processes which may lose value over night if some cost-reducing mechanism is put on the market by a manufacturer capable of producing it in quantities. Formerly, a

great number of tables were compiled purporting to show the average depreciation on various kinds of machinery. These are useful only as guides. Wear-and-tear depreciation will vary according to the use or abuse of the machine, some factory managers being good housekeepers and others not.

*Appraisals.*—Appraisals of machinery losses are usually less accurate than appraisals of building losses. But if the machinery is in sight and a competent appraiser is to be had, the adjuster should not hesitate to appraise after efforts to adjust differences have failed.

*Final Papers.*—Final papers should consist of the insured's inventory, the originals or copies of any bids to repair or replace, an extract of the machinery account, if examined, and the bills for any repairs actually made. Estimates or reports made by machinists or engineers employed by the adjuster should invariably go to the company. In case of appraisal the award should be forwarded.

*Farm Produce and Equipment.*—The articles of property to be found on a farm will be determined by the section of the country and the needs of the particular branch of farming followed. Cattle ranches, wheat lands, fruit orchards, cotton plantations, dairy farms, poultry yards, and farms that combine the production of grain and live-stock will be equipped differently. The principal classes of equipment and produce are:

1. Implements requiring animal power or tractors.  
Plows, harrows, drills, reapers and binders.
2. Hand tools.  
Spades, shovels, hoes, rakes, mattocks, axes, and carpenters' tools.
3. Vehicles.  
Wagons, buggies, sleighs.
4. Equipment.  
Harness, saddles, ropes, stakes, tarpaulins.
5. Dairy equipment.  
Separators, aerators, milk cans, bottles.
6. Poultry raising equipment.  
Incubators, brooders, coops.
7. Feed stuffs.  
Hay, fodder, ensilage.

8. Fibres.  
Cotton, flax, hemp, wool.
9. Produce.  
Fruits, grain, vegetables, tobacco.
10. Live stock.  
Horses, mules, cattle, sheep, hogs.
11. Poultry.  
Chickens, turkeys, ducks, geese, guineas, pigeons.
12. Hides, eggs, dairy products

Farm buildings are usually of frame construction, seldom under protection of fire departments, and often without occupants or visitors for hours at a time. These conditions combine to produce a high percentage of total losses to the contents, fires seldom being discovered until too late to be controlled by bucket brigades, even if an ample water supply and a number of hands are available. Partial losses are therefore more often losses involving the total destruction of part of the contents than is the case with property under fire protection. Water damage to the articles is seldom suffered unless there has been a removal from the building, and rain has fallen.

Implements, tools, vehicles, and equipment are almost invariably reduced to scrap when the building housing them burns. Food, fibre, dairy, and poultry products will generally leave nothing but ash heaps. Live stock is consumed more slowly, the bones of all but the smallest animals remaining in evidence.

*Protection from Further Damage.*—There is little to be done beyond putting under shelter such property as may have been saved. Livestock suffering from burns or scratches should receive immediate attention. If animals are killed by lightning, prompt skinning will save the hides.

*Putting in Order and Inventory.*—The various kinds of implements should be sorted, and harness and gear matched up, to determine what may have been destroyed. In very few farm losses will much of this have to be done, as the destruction of equipment can usually be determined by the pieces of metal found in the ruins. If these are collected and sorted, an inventory of destroyed articles can be properly prepared and readily checked. Plows, spades, vehicles, harness, creamery equipment, and poultry-raising equipment leave identifiable remains. The

carcasses, or in case of severe fires, the skeletons of live stock can be seen in the ruins. Produce does not leave such evidence. Unginned cotton, grain in cribs or bins, unbaled hay, or leaf tobacco will burn to ashes. Such items have to be inventoried from the memory of the farmer. Some highly developed farms maintain reliable book records, but these are exceptional. As a rule, the quantity of produce has to be determined by calculating the cubic capacity of lofts, bins, or cribs, and comparing the results with the testimony of the farmer or his help. Additional evidence to be developed is the acreage devoted to different crops, the productivity of the land, and the average yield of the preceding crop season. A consideration of these ought to determine the maximum quantity of any kind of produce on hand immediately after harvest. Deduction must be made from this maximum for sales or consumption, the remainder to be compared with the farmer's original statement of the quantity on hand. Consumption of feed stuffs can be roughly calculated from the number of the different kinds of animals being fed. This consumption varies with the seasons and pasturage available.

*Values and Damage.*—The adjuster handling farm losses must be familiar with the values of all articles and crops ordinarily to be found on the farms throughout the territory in which he operates. Many farm losses occur at points far from stores or supply houses where prices can be checked. If the farmer's dwelling is not destroyed with his other buildings, a mail-order catalogue will generally be found which will be helpful. If necessary, prices of equipment should be fixed by a comparison of the inventory figures with articles actually on sale in the stores from which the farmer makes his purchases. Market prices on produce can be established in the same manner, and all local prices on produce can be checked by the market columns of the larger daily papers. The few cases of damaged articles may require an occasional estimate by a repair man, but not ordinarily. If a farm machine is damaged the farmer can usually show by a catalogue what the parts to be replaced will cost, and can make a fair estimate of the time needed to make the repairs.

*Appraisals.*—The author cannot recall any claim on farm property requiring an appraisal. As the majority of controversies have to do with the quantity of produce on hand, it can

be assumed that appraisers would be as uncertain of their positions as are the adjuster and the claimant.

*Final Papers.*—Farm losses seldom develop many papers. Frequently the insured does not prepare an inventory, but on the arrival of the adjuster recounts from memory the articles lost, allowing the adjuster to tabulate them. In such cases the adjuster's statement, or inventory, is all that should accompany the proof of loss and letter reporting on the occurrence. Any inventory prepared by the claimant should be forwarded, and if any farm records were made the basis of the adjustment, these should be commented on, and a copy of the pertinent entries sent.

**Libraries, Schools, Churches, and Art Galleries.**—The contents of libraries, schools, churches, and art galleries, may be divided into two classes. Bookcases, chairs, tables, desks, pews, altars, organs, seats, cabinets, and display racks form one class. This class is identical with furniture and fixtures, and will not be discussed here. Books, manuscripts, insignia, vestments, pictures, statuary, and kindred articles form the second class. Similar articles are found in all large and elaborately furnished dwellings. The work of preserving these from further damage when wet has been outlined in the section dealing with household furniture. There is left for specific discussion only the sources of information regarding values, and the methods of determining damage done.

*Values and Damage.*—Books in daily use, insignia, and vestments can usually be replaced through the houses which sell them. Ordinary books can be rebound at commercial binderies when damaged, while insignia and vestments can be restored, cleaned, or repaired if only slightly injured. The rare and unusual article, prized because of great age or its production by a celebrated person, is difficult to value, and difficult to repair if injured. To fix in terms of money the amount of damage done to such an article is even more difficult. Values of such articles must be referred to experts who are familiar with them. It may be well to consult several experts if they are accessible. Opinions will generally differ somewhat, and the rarer the article the greater will be the chance of widely varying opinions as to its value. In the larger cities there are men who make a business of repair-



ing injured objects of art. Old books can have their bindings reproduced, and other restorations made. There are many artists who lack creative ability, but who are gifted with the ability to imitate, and to these goes the work of restoring paintings or statuary. Their opinions should be obtained in case of damages. Many partly burned tapestries can be rewoven so as to defy detection by any except the expert. While repairs and restorations may not leave the articles as valuable as before, they prevent them from becoming total losses. It is well to remember that many costly works of medieval and early modern art have undergone some restoration before being marketed.

**Miscellaneous.**—Some rather important subdivisions of personal property have not been discussed. The contents of theatres, picture theatres, laboratories, and photograph galleries are examples. But the articles appearing on an inventory of such property can be classified into groups which are similar to these already described. Thus the seats of a theatre are furniture, the curtains, draperies, and the scenery are either pictures or furniture, and the mechanism behind stage is machinery. Similar divisions of the miscellaneous contents of other establishments will suggest themselves

## CHAPTER VI

### PERSONAL PROPERTY (*Continued*)

#### STOCKS OF MERCHANDISE

**General.**—A stock of merchandise may consist of a single commodity in bulk, such as oil in a tank; or it may be a collection of miscellaneous goods, like the contents of a large department store. Stocks may be animal, vegetable, mineral, or metal products, or combinations of two or more of these. When a loss is to be adjusted on stock in sight the procedure to be followed is the same as that followed with other classes of personal property; the stock must be protected from further damage, the damaged and undamaged lots or articles separated, and an inventory prepared. But when a loss involves stock out of sight the procedure followed generally dispenses with any attempt to prepare a physical inventory, the total value of the merchandise being determined from the information shown by the books and records of the insured.

As the financial loss to a merchant or manufacturer whose stock has been damaged will depend upon his ability to market it, the adjustment of a loss on stock in sight will necessarily require a consideration of merchandising customs and trade conditions as well as the physical injury to the stock itself. These customs and conditions, in fact, so largely influence the choice of method to be used in adjusting losses on damaged stocks that the classification which seems best adapted to a discussion of these losses is based on the customs and conditions of trade, and not on the nature of the merchandise affected. Losses involving damaged merchandise in which there is an appreciable remaining value may therefore be considered as:

1. Losses on single commodity stocks in bulk or large packages.
2. Losses on wholesale stocks.
3. Losses on manufacturers' stocks.
4. Losses on retail stocks.

**Effects of Fire.**—Merchandise may be consumed by fire or may have its value destroyed by being melted, evaporated, scorched, or heated, or by being affected by smoke or water. Cotton, silk, or wool fabrics, paper, and wood articles burn to ashes. Metals which melt at low temperatures are often lost in the burning of the structure where they are stored, while metal articles may be fused into a mass which will have to be broken up and recast. Liquids in tanks, vats, or other vessels may be evaporated, or may be lost if the receptacles are cracked by fire. Articles such as pictures, books, and novelties may be ruined by being scorched. Wax figures and candy are unsalable if the heat in the premises has been great enough to soften them and get them out of shape. Loss is also occasioned in stocks of bottled goods if the heat causes an expansion of the air in the bottles and forces out the corks. In many such cases the contents of the bottles will deteriorate. Sufficient heat will frequently explode, rupture, or swell containers of merchandise having a moisture content which develops steam or other vapor when heated. Rubber or leather articles are rendered brittle. The action of heat also cracks such materials as glass, mineral, or the compositions forming a part of various kinds of merchandise. While some stocks, such as acid phosphate used in mixing commercial fertilizers, are not injured by the direct action of heat or fire, they may be strewn with nails, bits of metal, bricks, plaster, and other non-combustible residue of the building housing them. If this occurs, considerable expense may be necessary to clean them. Merchandise is at times buried, crushed, or broken by falling walls, timbers, or other building debris. Some losses are due to smoke. Delicate fabrics which will not stand cleaning suffer severely when there is a genuine smoke damage to them. As smoke, however, is generally injurious in direct proportion to its heat, and to the amount of distillate that it may deposit when cooling, care should be taken to distinguish between light smoke damage, which is simply a deposit of light, black dust, and severe smoke damage, which may cover the surface of everything it touches with a film of gum or oil. In the country districts losses sometimes result from breaking, tearing, and soiling when merchandise is hurriedly removed because endangered by fire in nearby premises.

Great damage is done by water. Stocks such as zinc sulphate or salt may be dissolved. Other stocks which are not soluble but which are composed of light particles may be scattered, or washed away by the water from hose streams. Some liquid stocks lose value by being diluted. Other stocks are injured by having their component articles mixed. Pearl buttons of assorted sizes packed in pasteboard boxes cannot be reclaimed at any reasonable cost if the firemen play enough water on the stock to soften and break open the boxes, allowing the contents to mingle. Different chemicals may be washed together by the action of water, with resulting loss. Articles which tend to become sticky if wet suffer great damage, stocks of paper envelopes usually becoming total losses if wet enough for the flaps to adhere. Staining and discoloration due to the mingling of colors, and changes in flavors of food stuffs, are common water damages. Stocks such as cement, flake or powdered glue, or sugar may be solidified by the action of water. Cloth often shrinks after being wet. Hardware stocks will rust unless immediately dried and cleaned. Water damages stocks of furniture by softening the glue, following which the joints open. In many commodities or articles, wetness and dampness frequently produce mildew. Stocks of cotton seed, linseed, hay, or mixed feed will heat after being wet, the heat increasing, if the mass is great enough, until there is spontaneous ignition. Water coming in contact with potassium produces combustion. Stocks of lime develop enough heat when wet to ignite the barrels.

The destruction of a roof or the breaking out of windows may expose the contents of a building to serious injury, as many kinds of merchandise require protection from rain, heat, or cold. Perishable stocks stored in low temperatures will suffer if fire causes a failure of the refrigeration, or if a rupture of the walls or roof of the building causes a rise of indoor temperature. Stocks subject to injury by freezing will deteriorate if windows, roofs, skylights, or walls are damaged so that necessary warmth cannot be maintained. Stocks of bottled liquids subject to freezing will be total losses if damage to the building or its heating system exposes them to extreme cold.

**Protection from Further Damage.**—Because of the great values to be found in large stocks of merchandise, much effort is expended

to save and protect them. The adjuster is at times called upon to recruit help to assist in actual fire fighting, particularly in the case of cotton, cotton seed, and coal fires. In the case of burning oil tanks, arrangements can sometimes be made to pump most of the oil from the bottom of the tanks, and thus reduce the fire loss. After fires have been extinguished much damage is prevented by re-roofing or closing in damaged buildings, by covering with temporary sheds or tarpaulins merchandise that must remain out-of-doors, or by recovering and restoring to its proper place merchandise which has been removed because of threatened destruction. Water is evacuated from flooded basements containing submerged merchandise by opening clogged drains, or by bailing or pumping if drainage is inadequate. If steam connections are available steam jets can be used as well as pumps. Perishables, such as vegetables, fruits, and fresh meats, are frequently saved by being immediately distributed to retailers or other consumers before deterioration sets in. Wholesale stocks of meats and dairy products in cold storage must at times be transferred to other cold storage plants if the premises have been damaged so as to admit the weather, or if the refrigerating machinery has been put out of commission. Certain products in process of manufacture, such as skins, hides in vats, or grain that must be dried mechanically, can be saved from further damage by being sent immediately through the next processes of work. A stock of raw furs, if wet, can ordinarily be sent to the dressers and finished without appreciable loss. In laundry fires the wet clothing should be sent immediately through the washing and drying processes unless the mechanism has been disabled. Wet merchandise generally requires separation and drying. In hot sunny sections much of this is done by exposure to sun and wind. In many cases wet stocks can be spread in open lots or on top of buildings. In the larger cities mechanical driers do such work more rapidly. Stocks such as furniture and machinery must be wiped. Metal products subject to rust require oiling or greasing. Small articles, in quantities, are usually dipped in oil with the help of wire baskets, but guns, pistols, and similar merchandise require individual wiping and greasing.

In cities where competent salvors are available, many damaged stocks are promptly removed, dried, and inventoried by these

salvors with a consequent protection against further damage, which is highly effective. This work is done under an agreement between the insured and the adjuster, which should be reduced to writing to prevent misunderstanding. In the New York Metropolitan Area, the practice is spoken of as *removal for better protection*. The actual moving and drying precedes the taking of an inventory, all effort being concentrated on getting the stock out of the damaged premises and into mechanical or other drying devices with the minimum delay. When drying has been completed, the stock is sorted and inventoried on the premises of the salvor.

**Separation and Putting in Order.**—A bulk commodity, part sound and part damaged, may be shoveled into separate lots or piles. Sound stock in undamaged bags or packages should be separated from damaged, and both kinds stacked or otherwise arranged in orderly fashion. Separation of articles in a retail stock must be governed by the nature of the damage and the space available. In handling any kind of stock, worthless damaged articles should be held where they can be counted pending adjustment. Separating the damaged merchandise from the undamaged, and putting both in the best possible order, prepares a stock for examination by an adjuster or by a salvage buyer. After the stock has been put in such condition the adjuster can form an intelligent opinion as to the amount of damage, and the salvage buyer can make an intelligent determination as to how much he can afford to pay for it. In order to make a proper separation of some stocks it may be necessary to remove debris, or to brace weakened portions of the building that may be dangerous.

**Measure of Loss.**—When merchandise is destroyed, the owner's loss is limited by the cost of replacing it, whether the cost of replacing is greater or less than the cost of acquiring it. In the case of the wholesaler or the retailer, the cost of replacing may ordinarily be determined by adding to the current invoice price of the merchandise any freight or other carriage charges necessary to deliver it to the place of the fire, and deducting any discount to be had by making cash payment. In the case of certain producers, the cost of replacement is determined by the selling price in the open market, as these producers cannot replace

their products promptly except by purchasing from another producer. Producers of cotton, grain, skins, and similar commodities are examples, as are also canners of fish, fruit, and vegetables, and manufacturers of sugar, and of cotton-seed products. Such canners and manufacturers can obtain raw material only during a certain season, and cannot replace their product thereafter except by purchase of the finished product in the open market.

Merchandise bought abroad is generally dutiable, the duties constituting a proper addition in the determination of replacement cost. If landed in bond without payment of duty, and destroyed while in bond, there is no obligation on the part of the owner to pay duty, and the item is not to be considered. If, however, the merchandise is destroyed in bond after the duty has been paid, the duty is, under some circumstances, recoverable from the government.<sup>1</sup>

When merchandise is damaged the amount of loss suffered by the owner will be measured by the difference between the value of the merchandise before the fire and its value after the fire. The value of merchandise depends on its salability, which may be reduced by loss of weight or quantity, or by change of character or appearance. Some stocks consist of commodities which can generally be reconditioned after being damaged, and can thereafter be sold as sound merchandise. Other stocks can be repacked, redyed, or refinished, and sold as seconds or as inferior grades. Still other stocks must be distributed to consumers as admittedly damaged goods through the medium of fire sales, or through regular dealers in damaged and odd-lot merchandise. In the case of commodities that can be reconditioned and sold as sound, the measure of loss will be the cost of reconditioning. In the case of stocks that, after refinishing, must be sold for less than the price of sound merchandise, the measure of loss will be the cost of refinishing plus the amount lost through price reduction. This amount is ordinarily accepted as the difference between the selling price of the merchandise when sound, and the selling price when damaged, reduced by the normal rate of gross profit. In the case of stocks that must be sold as admittedly

<sup>1</sup> Instructions of the Committee on Losses and Adjustments, New York Board of Fire Underwriters. See p. 378.

damaged goods, the measure of loss will usually be the same, except that there will be no cost of refinishing. There is an exception to be made in cases where the entire stock is sold in one transaction to establish its value after the fire. In such cases the measure of loss is the difference between the sound value of the stock and the net amount realized from the sale. It should be kept in mind that the destruction of a part of a unit of merchandise may seriously reduce the selling value of the remainder of the unit if the part cannot be replaced.

At times claims will be made for the cost of moving from the premises and dumping worthless articles of merchandise. Such claims are customarily rejected, and certainly are not in order if the other items of loss equal the cash value of all the merchandise on hand.

**Inventory.**—The policy requires an inventory stating the quantity and cost of each article and the amount claimed thereon. Quantity is stated by weight, by count, or by volume, according to the kind of merchandise, *e.g.*, tons of coal, dozens of shirts, or gallons of oil. The work of making inventories is well understood in all lines of trade, in many of which mechanical aids or quick methods have been devised to reduce the time needed to weigh, count, or measure stock. In the larger cities, many inventories of fire-damaged merchandise are prepared by the joint efforts of the insured and a representative of the insurance company, the latter usually the employee of a salvage company, whose experience has made him proficient in the work. In the smaller towns, the adjuster must check or help make inventories himself. He should therefore learn as much as possible about the methods ordinarily used to reduce the labor of inventorying the kinds of merchandise with which he most often comes in contact.

Bulk commodities which are bought and sold by weight would not often be inventoried if it were necessary to put them on the scales. A large quantity of any powdered or granulated commodity would require too much time and labor to transfer, either by hand or mechanically, into boxes or bags which could be weighed. There is usually a constant relation between the weight and quantity of such commodities, a relation which enables the inventory-maker to calculate the weight from a measurement



of the quantity. If stored in rectangular bins, or sections of a building, the quantity and its weight can easily be determined. If a large pile, of conical or irregular shape, is encountered, the volume should be calculated by a civil engineer, unless the adjuster's education qualifies him to plot the area and determine the average height. Counting can often be simplified by making a detailed count of a single unit area, bin or section, and multiplying the result by the total number of units. Small- or moderate-sized articles can be weighed in quantities after finding the number to the pound or hundredweight. The yardage in bolts of cloth is measured with a fair degree of accuracy by a mechanical device now to be found in all large stores. Some industries have developed machines which not only sort articles into different sizes, but which also count and deliver them in lots of definite numbers.

The taking of an inventory should be done in the manner best calculated to make its check and verification easy. When stocks of goods are separated into lots, it is well to mark each lot with a numbered tag. As a general rule, the lots should be tagged before counting, the number of the articles to be written upon the tag after the lot is counted. This method will enable the writers of the inventory to record promptly the number of articles in each lot, after which the prices can be supplied and the extensions calculated. If a loss occurs shortly after a stock has been inventoried in the regular course of business, it will sometimes be possible to save considerable labor by checking the regular inventory against the stock, noting corrections. The corrected inventory can then be copied.

When there is no merchandise burned out of sight, it is immaterial whether the inventory is priced on a basis of actual cost or replacement cost, provided the same basis is used throughout, and provided also that the inventory discloses which price has been used. In pricing an inventory, the records of the business should be referred to, particularly the invoices and the canceled checks given in payment, as these will enable the adjuster to ascertain the price of the merchandise and the dates of purchase. In times of changing markets, there may be an appreciable difference between the price actually paid for merchandise and the cost of replacement.

**Making an Inventory.**—Before making an inventory of merchandise that has been partially damaged by fire, smoke, or water, the premises should be cleaned up. Usually the space and its contents are in a confused state, with debris littering the floor. The stock should be sorted and arranged on shelves and counters, following, if possible, the arrangement previous to the fire. If the shelves and counters have been destroyed, the stock may be arranged along the floor. As far as possible, articles of each class, style, and price should be kept together, except that the damaged should be separated from the undamaged. A lot number should be assigned to each different degree of damage, even when merchandise of similar character and price is involved. A conspicuous tag should be put on each item, the tags being given consecutive numbers. When it is practicable, a single lot number may cover an entire section or area if the items in it can be readily traced from the inventory to the merchandise, and *vice versa*. Such an arrangement will expedite future examination by the adjuster, appraiser, or expert who may be called to verify the inventory, or to give an opinion on values, damages, or salvage value. Since those who follow the maker of the inventory cannot be expected to know what he had in mind, no abbreviations should be used except those common to the trade or readily understandable. All prices should be for the unit of quantity given unless otherwise shown. If the unit of quantity is the dozen, the price by the dozen should be given, unless there is a supplementary notation showing that the price is by the gross or by the single unit. An accurate count, weight, or other measurement of each item must be taken. When quantities cannot be determined, the inventory should be explicitly marked "estimated," and when prices must be averaged they should be stated as "averaged." Unless this is done, quantities and prices will be assumed to be actual. This is important, particularly if litigation should follow.

If the fire is of suspicious origin it is of great importance that the person making the inventory secure proper descriptions as well as an accurate count of the items, style numbers, manufacturer's name and numbers, or other marks of identification, so that all items can be traced to bills or direct to the manufacturer, importer, or dealer from whom they were purchased.

Sizes, styles, and colors will usually indicate whether merchandise is staple or obsolete, while original invoices will show its age, thus indicating depreciation. If the merchant disposes of desirable sizes, leaving only small or large sizes, the outlet is considerably reduced, and he must generally mark down the prices. Styles in women's wear, millinery, novelties, and specialties change almost over night. This is also true of certain classes of men's wear, though generally to a lesser extent.

**Verifying an Inventory.**—If an inventory has been furnished by the insured, it will, in many cases, be desirable to determine its correctness as to quantities and values. If the inventory does not follow some definite order it is apt to be confusing, and it will often be better to make a new one. An experienced inventory man representing the insured will generally prepare an inventory in appropriate order, but as the ordinary merchant does not have his yearly inventory verified he generally takes it in the order that happens to be easy.

If the inventory submitted seems to be intelligently prepared the description of a specific item should be examined to see whether it corresponds with the material, style, or item in question, and gives the correct price or value. Quite often items are consolidated in order to save time and labor, and prices are averaged, frequently too high. Each item should be carefully counted weighed, or measured to see that it corresponds with the count, weight, or measurement stated on the inventory. If there is a discrepancy it should be noted opposite the item by an entry of the correct figure. On completing the verification, a list of overs and shorts should be compiled, and a final calculation made so that the proper amount may be added to, or deducted from, the inventory, according to the result of the calculation.

**Testing an Inventory.**—If an inventory appears to be correct, and circumstances justify its acceptance without a complete verification, it is often sufficient to verify certain items as a test. In such cases it is well to make a general examination of the stock, noting whether the lot numbers follow some regular order, and whether the material corresponds with the general description. If values appear to be in order, certain items should be selected at random and accurately counted, following which the price stated should be traced to the bills of purchase or market

reports. If a sufficient number of items are thus tested a fair idea can be gained as to the general accuracy of the inventory. If material discrepancies are noted in quantities, descriptions, or values, a complete verification or a new inventory should be made. If, however, the items selected for testing are found to be correct it is fair to assume that the inventory is reasonably correct, and can be accepted. This method is often used when the damage is slight, and the claim appears to be in order.

**Values and Damage.**—The replacement cost of staple merchandise in the common trades can ordinarily be determined by making an examination of the invoices kept on file by the purchaser. In case of doubt, the sellers can be interviewed and asked to quote prices at which they will sell in quantities shown by the inventory. After replacement cost has been established and a proper deduction made for depreciation, the remainder will represent sound value. In periods of steady business conditions there is seldom any difficulty in establishing the replacement cost of staple merchandise. In periods of commercial depression, however, much conflicting information will develop in connection with prices. If the depression is severe enough, jobbers will sometimes offer to sell the merchandise they actually have on hand at lower prices than the quotations of manufacturers who would produce the goods only on order. In such periods it is therefore difficult to establish replacement cost. In any period, prosperous or depressed, it is very difficult to determine the real value of merchandise which has been purchased in job lots, at bankruptcy sales, or from sellers in financial distress. Such merchandise will sometimes be incorporated into the stock of an enterprising merchant, and will be sold at a substantial profit, possibly for the same prices he will get for the same kind of goods bought in the open market. On the other hand, such merchandise may be hard to sell, and may have to be sold at irregular prices. Its value is therefore entirely dependent on the ability of its possessor to sell it, and no hard and fast rule can be laid down for fixing a price on it. Fortunately for the adjuster, the majority of losses on merchandise are sustained by reputable concerns who buy through wholesalers, manufacturers, or producers who are able at any time to quote *bona fide* prices.

The books of a business will often throw much light on the value of the merchandise, in addition to showing the prices at which it was purchased. If the books are kept in a manner that shows the selling price of individual articles, the selling price can be compared with the cost price. There is generally a normal rate of profit at which a business must sell its particular goods, and if the books show that the goods are being sold for less than this normal rate of profit the adjuster should endeavor to discover the reason for it. Such a condition may indicate a decline in the market, which would require that the inventory be priced at replacement cost instead of the original cost. On the other hand, it may indicate the possession of a badly selected stock, or one that has been run down to the point where sales can only be made at reduced prices. If the books do not show the selling prices of individual articles some idea of the condition of the stock, and therefore of its value, can be determined from the rate of turnover. Rapid turnover at an average profit indicates well selected merchandise, while slow turnover indicates stock hard to sell. Stock that is hard to sell is not worth the cost of replacing.

A stock of merchandise may be damaged through suffering the total destruction of one or more of its component parts, articles, or divisions. If such is the case, and the quantity destroyed can be determined, the damage can be fixed with a degree of accuracy depending on the nature and condition of the merchandise. Thus, if the insured's stock consists of prime cottonseed oil in five tanks, and one tank containing 10,000 barrels of oil is destroyed, the value of the oil destroyed and the consequent loss to the insured can be quite accurately determined. A stock, however, may sustain a general damage. If so, the loss suffered by the owner may be uncertain. If the insured's stock consists of clothing and furnishings sold at retail, and the stock is thoroughly drenched by water used to extinguish a fire on the floors above, the insured's loss will depend on his ability to recondition and sell the merchandise, either through a fire sale, or through sales to salvage buyers. It is, therefore, obvious that the determination of the latter loss will be less accurate than that of the former; unless the salvage is sold as a whole, and the loss determined by deducting the amount realized from the value of the merchandise before the fire.

**Depreciation.**—Stocks of merchandise depreciate because of shop-wear, poor storage or handling, poor selection, slow selling, deterioration, the attacks of insects, rats, or mice, and influences of climate, weather, or location. A decline in market price is not depreciation. Shop-wear is shown in soiling, fraying, rusting, tarnishing, fading, denting, and chipping. Poor storage may expose merchandise to moisture and heat conditions which will result in mildew or fermentation. Failure to dust or wipe furniture stocks will cause them to lose their polish. A poor selection of sizes will soon leave a shoe stock with nothing but unsalable odds and ends on hand. Failure to clear out the less desirable pieces of a lumber stock will often leave on hand an excessive percentage of culls. Slow selling of seasonal merchandise, resulting from overbuying, poor general or local business conditions, or other causes, prevents the clearing of stock in the season for which it is suited, and compels the merchant either to sacrifice it, or risk carrying it over to compete with new styles of the next year. Many food stocks are at their best for only short periods. A bakery stock would probably be unsalable if kept a week. Raisins, dates, figs, and other dried fruits lose quality rapidly. Moths attack furs or woolens. Flies speck the surface of articles. Weevils invade grain and grain products. Rats and mice cut the containers of foodstuffs. Winds, moisture, heat, and cold are at times injurious, while location may expose a stock to such deteriorating influences as excessive smoke from nearby plants, or gases that have a corrosive effect.

**Adjustment Negotiations.**—The choice of a method by which the loss on a stock of merchandise is to be adjusted will be influenced by the problem which the particular loss presents. The loss may involve stock in sight or stock out of sight, or both. In some losses there will be a complete destruction of part of the stock and a general damage to another part, while the rest of the stock will have escaped injury.

#### STOCK IN SIGHT

If the salvage value is less than the probable expense of saving and selling the merchandise, a determination of the sound value will also determine the loss. In such a case only two steps need be taken, the first being to make an inventory, the second, to

agree upon the amount to be deducted for depreciation. The difference between the amount shown by the inventory and the amount of depreciation will represent both sound value and loss.

If, however, the value is material, the property must be protected from further damage, an inventory completed, depreciation agreed upon, and a decision made by the adjuster whether he will try to adjust the loss by agreeing with the insured upon its amount, or by agreeing upon the sound value, and thereafter selling the salvage. The greater number of adjustments are made by agreeing upon the amount of loss, the insured collecting this, or such portion of it as may be collectible, and retaining the damaged merchandise to be disposed of as he may see fit. Under the terms of the policy, this is the only kind of an adjustment which the insured can demand. If the amount of loss cannot be determined by agreement it can be fixed by appraisal. In some cases an agreement is reached that the stock shall be reconditioned, and that the cost of reconditioning, plus proper allowance for loss of weight, quantity, or grade, shall determine the amount of loss.

If the insured is to retain the merchandise, the adjuster may negotiate for an adjustment with or without the help of an expert, depending on whether he is familiar with the value of the merchandise involved, and with its susceptibility to loss. While several of the methods of negotiating described in the last chapter<sup>1</sup> may be adapted for use in connection with stocks of merchandise, it is only on rare occasions that there is any use made of those which have to do with reconditioning. Usually the adjuster and the insured discuss the probable out-turn of the damaged goods, giving consideration to trade conditions and other matters bearing on the insured's opportunity to dispose of them. Quite often, however, the adjuster will bring into the discussion men who make a business of trading in damaged stocks, particularly representatives of the Underwriters Salvage Company.

If the loss is to be adjusted by agreeing upon the sound value, thereafter selling the salvage, the adjuster may arrange to have the insured paid for the sound value of the merchandise, which

<sup>1</sup> See p. 69.

then becomes the property of the company to be sold for its benefit. Under the terms of the policy, the adjuster may demand of the insured that he surrender the merchandise on being paid for its sound value. In a number of cases, however, after the sound value has been agreed upon, the salvage is sold under an agreement that the net proceeds realized after paying the necessary expense of recovering and selling it shall be paid to the insured. The difference between the sound value and the net proceeds is the amount of loss. Neither the insured nor the adjuster may insist that the adjustment be made on this basis. Such an adjustment may only be made by agreement.

The insurance companies generally discourage the practice of selling salvage, except when the merchandise must be diverted into other channels of trade after being seriously injured by fire. In such cases, the insured's opportunity for disposing of damaged goods is so limited that greater loss would result from his attempting to handle them than would result from the adjuster taking them over for sale in the market open to competent salvors. The adjuster, therefore, should limit salvage operations to such cases as cannot be properly adjusted by any other method. Salvage operations are now generally turned over to such concerns as the Underwriters Salvage Company, the old practice of having the adjuster conduct such sales having been abandoned except in a few localities.

Losses on damaged stocks are usually adjusted in the following manner:

**Single Commodity Stocks in Bulk or in Packages.**—Grain, cotton, wool, fertilizers, oils, lumber, hides, sugar, and tobacco are typical single commodities carried in bulk or in packages. While these are in the hands of producers or dealers who concentrate them in order to sell to manufacturers or other distributors they are generally graded and classed according to market rules or customs. Thereafter they are generally sold by grade or class, the purchasers sometimes giving their orders without seeing the merchandise. In some cases a sample is submitted. This practice is responsible for numerous claims against the sellers, who are charged by the purchasers with having delivered merchandise that is not up to standard grade or class, or that is inferior to the sample submitted.



The loss on a stock of this kind will generally depend on the possibility of reconditioning, or the ability of the trade to absorb damaged goods. If reconditioning will make the stock available for delivery in as good condition as it was before the fire, the cost of reconditioning, added to the cost of making up any loss in quantity, will normally be the measure of loss sustained. If, however, the reconditioned stock will be of a lower grade or class than before the fire, there will be a greater loss. If the insured and the adjuster can agree on the probable out-turn of the reconditioned stock, the loss can be adjusted for a definite sum of money, and the merchandise left in possession of the insured. In some cases the insured and the adjuster will agree that the stock shall be reconditioned without delay, an account kept of the reconditioning charges, and the adjustment completed after the reconditioned goods are put in order for inspection. In all cases, however, the insured's ability to market his damaged merchandise is a question for discussion. Often he will be reluctant to handle reconditioned stock, because of his experience with claims from his customers. If his selling market is limited to customers who can use only goods of the first grade or class, he will have no outlet for a reconditioned stock of a lower grade or class. When a case of this sort presents itself, a satisfactory result will generally be obtained if the goods are sold as salvage. Salvage operations are justified in a higher percentage of single commodity losses than in any other kind, and when handled with the help of good salvors usually turn out well.

Depreciation is generally an unimportant factor in well-kept stocks of commodities. Poor storage, handling, or packing, however, will bring about a loss in value in almost any kind of merchandise. Products subject to mildew will deteriorate rapidly if kept in a damp warehouse. Cottonseed in bulk will ferment and spoil if the seed were wet at the time of being stored. Hides not allowed a proper circulation of air deteriorate, sometimes to the extent of rotting. Cotton allowed to lie on wet ground suffers what is known as "country damage." The constant rejection of knotty or otherwise faulty pieces of lumber leaves an excessive percentage of culls in a lumber stock. Appraisals of single commodity losses have usually given satisfactory results.

**Wholesale Stocks Comprising a Variety of Commodities or Articles.**—Dry goods, hardware, groceries, paper, paints, furniture and kindred commodities are often carried by wholesalers whose stock usually comprises a variety of commodities or articles. Such stocks are distributed to retailers who buy from catalogues or samples, and who seldom come to the premises of the wholesaler to inspect his goods. Stocks of this class can seldom be sold to regular customers after being severely damaged, and when so damaged are proper subjects for salvage operations. While merchandise such as cotton goods in bolts can occasionally be refinished or dyed a dark color, and made salable, merchandise such as paper may be so injured that it can be used only as pulp stock for making pasteboard. Some hardware stocks that have been wet can be saved, but the others will deteriorate to a condition that leaves them fit for nothing but push-cart or bargain-store trade. Moderate damage to many stocks may do no more than reduce the merchandise affected from first to second grade, which the insured's trade will absorb at a proper reduction in price. Slight damage may bring no greater monetary loss than the cost of repacking or relabeling. A stock of canned goods on which the labels have been injured by wetting can, if handled properly, be cleaned, relabeled, and sold for full prices. Smoke damage to a wholesale stock may be serious or negligible, depending on the volume and kind of smoke, and also on the manner in which the stock is arranged. Heavy smoke from burning yellow pine, oil, or grease will deposit a coating on exposed merchandise which will do great damage. On the other hand, light smoke does no more injury than dust, often none if the merchandise is properly dusted off after being thoroughly aired. Depreciation in wholesale stocks is brought about by the accumulation of broken lots, the presence of old merchandise which has failed to move, and by poor storage. Appraisals of losses on wholesale stocks have generally shown fair results.

**Manufacturers' Stocks.**—A manufacturer's stock is generally divided into raw material, stock in process of manufacture, and finished merchandise. The raw material is frequently the same as that found in single commodity losses. The finished merchandise is the same as wholesale stock. Stock in process of manufacture is, however, quite different from anything found

in other kinds of losses. It is usually valuable only if it can be re-conditioned and finished by the insured himself. For this reason, it is the portion of the stock which is often the most difficult to handle, either on the basis of damaged goods or for sale as salvage. The manufacturer and the wholesaler face the same trouble in distributing damaged merchandise. Consequently, the finished merchandise, in many losses involving manufacturers' stocks, is a fit subject for salvage operations. Depreciation results from poor selection or storage, or from changing demands, which leave accumulations of unsalable manufactured goods. Appraisals of manufacturers' stocks have usually shown fair results.

**Retail Stocks.**—Retail stocks are sold in small quantities to a great number of customers who usually select their purchases after making a personal inspection. The retailer, therefore, has the best opportunity of all merchants for selling damaged articles. Damaged articles, however, cannot be sold by stores which cater to a high-priced trade or which do a large credit business. High-priced trade does not ordinarily care to buy damaged articles, and credit customers who make such purchases are prone to return them. But stores which sell to the low-priced trade can often conduct a fire sale so as to profit by the venture. A fire sale will show the best results if held in a large community of people whose incomes are small. Retail stock losses should be adjusted by agreeing on the amount of loss, as retail stocks can seldom be salvaged to advantage. The amount of loss is determined by considering how much the prices must be reduced in order to move the merchandise. The multiplicity of articles in a retail stock makes salvage operations difficult. Buyers seldom take over an entire stock, and will offer very little for many of the mixed or broken lots ordinarily found in a retail stock. At rare intervals these stocks are sold out on the insured's premises under check of the adjuster. Such an operation is to be resorted to only in extreme cases, for it seldom produces the desired result. Depreciation in retail stocks is brought about by the presence of broken lots, by poorly selected merchandise, or by poor storage and handling. Appraisals of retail stock losses have not shown satisfactory results.

**Books and Records.**—At times the books and records of a business will contain information which will enable the adjuster to determine that an inventory of damaged merchandise has been incorrectly taken, or that the merchandise itself has become hard to sell. If the books are kept so that the selling prices of specific articles can be compared with the cost prices, the adjuster should not content himself with a verification of the cost prices shown on the inventory, but should also trace a number of sales in order to determine whether the merchandise was being sold at a normal rate of profit. A claimant may present an inventory priced according to what the merchandise cost him, and may submit a number of original invoices to substantiate his prices. These invoices should be examined and the dates appearing on them noted. If the invoices date prior to the current season and cover any appreciable quantity of stock, the adjuster will be warranted in assuming that the stock has not sold well, and is therefore not worth the cost of replacement. Under such circumstances it is important that the adjuster trace a number of sales, as these may show that the goods have been sold at less than normal selling prices, perhaps at less than cost. If the tracing is carried out to the extent of following through all sales of a given kind of goods, and the dates of the sales are noted, the adjuster can establish the time at which the stock commenced to be hard to sell. In some cases, however, low selling prices will indicate nothing more serious than a decline in the market for the particular kind of merchandise, which will therefore have a replacement cost less than its original cost. If the adjuster finds that a large percentage of sales of standard merchandise has been made at less than cost he may assume that the business is under financial pressure.

When selling prices of individual articles are not shown by the books, the adjuster can generally still find in them some reliable indication of the general condition of the stock. If the inventories taken in the regular course of business have been preserved, it will be possible to compare the quantities of various kinds of goods in the inventory taken after the fire with the quantities in the inventories taken before. This may show that some lots of stock have been on hand for several seasons. If goods of the same kind and in the same quantity appear in one

inventory after another, and there are no invoices to show that new goods of the same kind have been bought, there is but one conclusion, the goods will not sell.

The prices of stock in the hands of a manufacturer should always be checked against the book records, as these prices are built up by allocating the cost of material, the labor charge, and the manufacturing expense to the various units of production. Whenever accurate cost-finding records are maintained, this work is considerably easier than when the costs must be averaged or estimated. Whatever method is used, tests should always be made to ascertain the accuracy of the allocation of costs to the units produced. For instance, if the unit direct labor charges are applied to the total production quantities the result should approximate the actual direct labor payroll. The total production quantities of various classifications, when multiplied by the raw material costs applied to each, should equal approximately the actual cost of raw materials used during the period, as shown by the raw material purchases adjusted by the increase or decrease in raw material inventories. Similarly, the amount of overhead expenses included in unit costs of the merchandise produced should be equivalent to the actual overhead expenses incurred.

If no cost-finding records are maintained, a test check should be made. The following example will illustrate how this may be done:

Assume that a manufacturer produces five articles, and that the estimated costs used in the inventory are as follows:

Product	
1	\$3.50
2	6.19
3	3.81
4	4.50
5	9.10

Reference to the records discloses the following total expenditures for the year's operations:

Raw materials .....	\$ 40,000
Direct labor.....	60,000
Overhead expenses .....	90,000
Total. ....	<u>\$190,000</u>

Production for the year was 6,000, 4,000, 3,000, 20,000, and 11,000 units respectively for the five articles. An application of the unit costs used in the inventory to the quantities produced during the year would reveal a considerable overstatement of the inventory unit prices, as follows:

Product	Units	Inventory unit cost	Total
1	6,000	\$3 50	\$ 21,000
2	4,000	6 19	24,760
3	3,000	3 81	11,430
4	20,000	4.50	90,000
5	11,000	9.10	100,100
Total . . . .	.	. . .	247,290
Total actual cost.	..	... .	190,000
Difference. ....	.....	... .	\$ 57,290

In instances where adequate cost finding records are available, the basic principle used in the allocation of costs should indicate the important figures to be verified. For example, if the cost records show the use of a fixed percentage of direct labor cost as the charge against units of production for overhead expense, the total of such overhead included in the costs should be compared with the actual overhead incurred. To illustrate, it may be found that a plant has a total actual overhead expense of \$300,000, whereas the application of the standard overhead rate of 150 per cent to a direct labor cost of \$250,000 resulted in the erroneous inclusion of \$375,000 as overhead.

Test checks, such as those described, are intended to indicate the general accuracy of the cost-finding records, and do not establish the accuracy of the segregation of costs between the various products manufactured. In all instances, the procedure in making a satisfactory test of the insured's costs is necessarily dependent upon the thoroughness and accuracy of the records available.

A general examination of the books is warranted in many cases, even though all of the stock is in sight. The rate of turnover is worth knowing, as it reflects the general condition of the business.

Likewise the rate of profit, the expense of operation, and the relation of indebtedness to assets should be determined whenever a serious loss has occurred.

**Final Papers.**—The inventory, with proper notations written upon it, or accompanied by a statement setting out all details of the adjustment, should be forwarded with the proof of loss in cases other than those involving the taking or selling of salvage. When salvage is to be sold, the inventory is given to the salvor in order that he may check out the merchandise and be assured that all articles to be taken are delivered to him. The salvor in due course is expected to inform the adjuster of any *shortage* or *overage* in the inventory, in order that the adjustment may be made on correct figures. The total of the inventory and any shortage or overage in these cases, should be reported by the adjuster, either in the statement of loss, or in the letter explaining the adjustment. The adjuster's agreement should always show the inventory total corrected by shorts or overs, unless made before the inventory is completed, as in the case of moving a stock for better protection. A copy of the agreement should appear among the final papers. If the loss is settled by appraisal, the original award should always be sent to the company.

#### STOCK OUT OF SIGHT

The value of merchandise burned out of sight may occasionally be determined by making measurements of the space which it occupied. If the length, breadth, and height of this space can be measured, the quantity of the merchandise can be established, and also its value. It is, however, seldom possible for the adjuster to make accurate measurements when any considerable loss has occurred, as in such a case the premises are generally badly wrecked, and do not show one or more of the points where measurements should begin or end. For this reason, the majority of losses involving considerable quantities of stock out of sight are adjusted on the evidence furnished by the books and records of the insured.<sup>1</sup>

Books and records may be quite simple. In some cases a single warehouse receipt, or a single invoice, will be enough to make adequate proof of the insured's loss. In others, however,

<sup>1</sup> See p. 121





necessary to deliver the merchandise. In the case of a manufacturer there are also charges to be considered for labor, power, and other items entering into the cost of production. In some instances, the cost of a purchase is reduced by a cash discount. As the record of merchandise sold seldom shows its cost, this cost is theoretically determined by deducting the ordinary percentage of gross profit from the amount of the sales. This percentage is obtained by finding the gross profit shown in the business done between inventories, and reducing it to a percentage of the sales for the same period. The theory of the book statement includes the acceptance of the proposition that the relationship between sales and the cost of goods sold is fairly constant from year to year in the same business, unless the books themselves show a reason for variation. Much of the work of the adjuster, or the accountant employed to examine claims, is devoted to a proper determination of the relation between sales and the cost of sales.

**Theoretical Gross Profit.**—In the normal course of business merchandise is sold for more than its cost, the difference between the cost and selling price being termed *gross profit*. *Net profit* is the remainder left after deducting selling, administrative, and other expenses from the gross profit. The purchase of an article which requires the payment of freight, and is subject to a cash discount, may be recorded on the books of the purchaser at one of four different figures, any one of which will be correct if proper entries are made in the freight and discount accounts. Consequently, there may be four different rates of profit, but only one which, if deducted from the selling price, will reduce it to the same basis as that used in recording cost. The exhibits which follow will illustrate the different rates determined by different methods of entry.

A unit of merchandise is priced on the invoice at \$10. The freight charge is 10 cents. The rate of cash discount is 6 percent. The unit is sold for \$15. The cost mark on the unit, and the entry to the purchase account may be any one of the following figures:

1. Invoice price	\$10.00
2 Invoice price plus freight	10.10

3 Invoice price less cash discount	9.40
4. Invoice price plus freight and less cash discount	9 50

Comparing each of the above with the selling price of \$15.

	Selling price	Marked cost	Profit	Percentage of selling price
1	\$15 00	\$10 00	\$5 00	33 $\frac{1}{3}$
2	15 00	10 10	4 90	32 $\frac{2}{3}$
3	15 00	9 40	5 60	37 $\frac{1}{3}$
4	15 00	9.50	5 50	36 $\frac{2}{3}$

Assume an inventory, dated Jan. 1, 1909, of \$12,525; purchases during 1909, \$37,500; sales during 1909, \$50,031.25; and an inventory dated Jan. 1, 1910, of \$10,000. Assume also, that the goods are not subject to freight charges or cash discounts. What profit was made in 1909? The cost of the stock represented by the first inventory added to the cost of the purchases for the year will be the total cost of the goods handled. If from the total cost the amount of the second inventory is deducted, the remainder will be the cost of the goods sold. The difference between this remainder and the total of the sales will be the gross profit.

Inventory, Jan. 1, 1909	\$12,525.00	
Purchases, 1909	37,500.00	
Total cost	\$50,025 00	
Inventory, Jan. 1, 1910	\$10,000.00	
Cost of goods sold	\$40 025.00	
Sales for 1909		\$50,031 25
Cost of goods sold		40,025.00
Profit on goods sold		\$10,006.25
Profit	\$10,006.25	
Sales	\$50,031 25	= 20 per cent

The method just explained may be summarized as follows:

*From the sum of the beginning inventory and the net purchases subtract the ending inventory. Subtract the remainder thus found from the total net sales, and the resulting figure will be the gross profit. Divide this figure by the net sales to establish the percentage, or rate of gross profit.*

It has been shown that four rates of profit can be used in connection with an article that is subject to a freight charge and a cash discount. So, in a stock of articles, four rates can also be used. An expansion of the original example will demonstrate this.

Assume an inventory dated Jan. 1, 1909, taken at invoice prices, totaling \$12,525, subject to 4 per cent cash discount, and to freight charges of 2 per cent of invoice price; purchases for 1909, \$37,500, subject to the same rates of cash discount and freight as the inventory; and an inventory dated Jan. 1, 1910, taken on the same basis totaling \$10,000. For purpose of illustration assume that the stock consists of units which are priced at \$25. What are the respective rates of gross profit on the four cost bases?

If the two inventories and the intervening purchases are treated on the basis of invoice price, the cost basis of the goods sold is established as invoice price. The difference between the purchase invoice price of the stock sold and its selling price is the profit over invoice price. The same result will be obtained if inventories and purchases are consistently treated on any of the other three cost bases already noted, the gross profit in each case being the gross profit over the particular cost basis used. Exhibits and a comparison follow:

#### 1 EXHIBIT SHOWING PROFIT OVER INVOICE PRICE

Inventory, Jan. 1, 1909, invoice price . . . . .	\$12,525
Purchases at invoice price . . . . .	37,500
Invoice price of stock in, and entering store . . . . .	<u>\$50,025</u>
Inventory, Jan. 1, 1910, invoice price . . . . .	\$10,000
Invoice price of stock sold . . . . .	<u>\$40,025</u>
Sales 1909 . . . . .	\$50,031 25
Less, as above . . . . .	<u>40,025 00</u>
Profit over invoice price . . . . .	\$10,006.25
$\frac{\$10,006.25}{\$50,031.25} = 20 \text{ per cent}$	

#### 2. EXHIBIT SHOWING PROFIT OVER INVOICE PRICE, FREIGHT ADDED

Inventory, Jan. 1, 1909, invoice price . . . . .	\$12,525 00
Freight, 2 per cent . . . . .	250 50
Purchases . . . . .	37,500 00
Freight, 2 per cent, on purchases . . . . .	<u>750 00</u>
	\$51,025 50

Inventory, Jan. 1, 1910, invoice price . . . .	\$10,000 00	
Freight, 2 per cent . . . . .	200.00	10,200 00
Invoice price of stock sold plus freight . . . .		<u>\$40,825 50</u>
Sales, 1909. . . . .	\$50,031.25	
Less, as above . . . . .	40,825 50	
Profit over invoice price, freight added. . . .	\$ 9,205.75	
	<u>\$ 9,205 75</u>	
	$\$50,031\ 25 = 18.4 \text{ per cent}$	

## 3. EXHIBIT SHOWING PROFIT OVER INVOICE PRICE, LESS DISCOUNT

Inventory, Jan. 1, 1909, invoice price . . . . .	\$12,525 00	
Less cash discount, 4 per cent . . . . .	501 00	
		<u>\$12,024 00</u>
Purchases, 1909 . . . . .	\$37,500 00	
Less cash discount, 4 per cent . . . . .	1,500 00	
		<u>36,000 00</u>
		<u>\$48,024 00</u>
Inventory, Jan. 1, 1910, invoice price . . . .	\$10,000 00	
Less cash discount, 4 per cent. . . . .	400.00	9,600.00
Invoice price, less discount, of stock sold . . . .		<u>\$38,424.00</u>
Sales 1909.....	\$50,031.25	
Less, as above.....	38,424 00	
Profit over invoice price less discount . . . .	\$11,607.25	
	<u>\$11,607 25</u>	
	$\$50,031\ 25 = 23\ 2 \text{ per cent}$	

## 4. EXHIBIT SHOWING PROFIT OVER INVOICE PRICE, PLUS FREIGHT, LESS DISCOUNT. NET COST

Inventory, Jan. 1, 1909, invoice price . . . . .	\$12,525 00	
Less excess of discounts over freight . . . . .	250.50	
		<u>\$12,274.50</u>
Purchases 1909 . . . . .	\$37,500 00	
Less excess of discounts over freight. . . . .	750.00	
		<u>36,750.00</u>
		<u>\$49,024.50</u>
Inventory, Jan. 1, 1910, invoice price . . . .	\$10,000.00	
Less excess of discounts over freight . . . . .	200.00	9,800.00
Cost of stock sold . . . . .		<u>\$39,224 50</u>
Sales, 1909 . . . . .	\$50,031 25	
Less as above . . . . .	39,224 50	
Profit over cost . . . . .	\$10,806.75	
	<u>\$10,806 75</u>	
	$\$50,031\ 25 = 21\ 6 \text{ per cent}$	

The figures in the four exhibits can be used to make a comparative exhibit.

## COMPARATIVE EXHIBIT SHOWING THE FOUR BASES FOR COMPUTING GROSS PROFIT

Percentage of freight 2 per cent of invoice.

Cash discount 4 per cent.

	Basis 1	Basis 2	Basis 3	Basis 4
	Invoice price	Invoice price plus freight	Invoice price less discount	Invoice price plus freight less discount or net cost
Inventory, Jan 1, 1909	\$12,525 00	\$12,775 50	\$12,024 00	\$12,274.50
Purchases, 1909 .. . . .	37,500 00	38,250 00	36,000 00	36,750.00
	\$50,025 00	\$51,025 50	\$48,024 00	\$49,024.50
Inventory, Jan. 1, 1910....	10,000.00	10,200 00	9,600.00	9,800 00
Stock sold.. . . . . . . . . . .	\$40,025.00	\$40,825.50	\$38,424 00	\$39,224 50
Sales, 1909. . . . . . . . . . .	50,031.25	50,031 25	50,031 25	50,031 25
Gross profit.....	\$10,006.25	\$ 9,205 75	\$11,607.25	\$10,806 75
	20 per cent	18.4 per cent	23.2 per cent	21 6 per cent

The correctness of the foregoing is further demonstrated by the exhibit following. Using an invoice price of \$25 a unit the selling price for the unit is found to be \$31.25. A statement of profit can then be made by a count of units bought and sold.

## STATEMENT SHOWING PROFIT BY ACTUAL COUNT

	Basis 1	Basis 2	Basis 3	Basis 4
	Invoice price	Invoice price plus freight	Invoice price less cash discount	Invoice price less cash discount plus freight or net cost
Inventory, Jan. 1, 1909				
501 units at \$25 invoice.	\$12,525.00	\$12,525 00	\$12,525 00	\$12,525.00
Freight, 2 per cent or \$250.50 .. . . . . . . . . . .		250 50		250 50
				12,775 50
Cash discount, 4 per cent or \$501.....			501 00	501.00
	\$12,525.00	\$12,775.50	\$12,024.00	\$12,274.50

## Purchases 1909

1,500 units at \$25 invoice				
Same percentage of freight and cash discount.				
1 Invoice price. . . \$37,500	37,500 00			
2. Invoice price . . . \$37,500				
Plus freight. . . 750		38,250 00		
3. Invoice price . \$37,500				
Less cash discount 1,500			36,000.00	
4. Invoice price . . . \$37,500				
Plus freight... 750				
\$38,250				
Less cash discount 1,500				36,750.00
2,001 units	\$50,025.00	\$51,025.50	\$48,024.00	\$49,024.50
Inventory, Jan. 1, 1910				
400 units at \$25 invoice, same percentage of freight and cash discount				
1. Invoice price..... \$10,000	\$10,000 00			
2. Invoice price .... \$10,000				
Plus freight... 200		\$10,200.00		
3 Invoice price. . \$10,000				
Less cash discount.. 400			\$ 9,600.00	
4. Invoice price .... \$10,000				
Plus freight.. 200				
\$10,200				
Less cash discount. 400				\$ 9,800.00

1,601 units sold—Their aggregate cost on				
basis 1 ..	\$40,025 00			
basis 2 . . .		\$40,825.50		
basis 3 . .			\$38,424 00	
basis 4 .				\$39,224 50
Retail price \$31.25 times 1601, or year's sales . .	50,031 25	50,031 25	50,031 25	50,031 25
Gross profit over				
basis 1 . . .	10,006 25			
basis 2 . . .		9,205 75		
basis 3 . . . .			11,607 25	
basis 4 . . . .				10,806 75

The previous summary may be expanded to take into account the four bases of gross profit:

*Determine on which basis the gross profit is to be ascertained Reduce the beginning and ending inventories and the purchases to this basis. From the sum of the beginning inventory and the purchases subtract the ending inventory. Subtract the remainder thus found from the total net sales, and the resulting figure will be the gross profit on the basis desired Divide this figure by the sales to obtain the percentage, or rate of gross profit.*

**Cost of Stock on Hand.**—Continuing the figures used in the preceding sections, assume that the stock was destroyed by fire on October 31, 1910. The invoice price of purchases in 1910 aggregated \$37,500; freight and cash discount were at the same rates of 2 per cent and 4 per cent respectively; producing a freight expense of \$750, and a discount saving of \$1,500 for the ten months. Sales for the period were \$43,750.

As the business for the previous year has been outlined and analyzed in the comparative exhibit on page 115, certain figures may be consolidated into an exhibit from which it is easy to take them as needed:

Year	Inventory	Purchases	Sales	Freight	Cash Dis- counts
1909.....	\$12,525	\$37,500	\$50,031 25	\$750	\$1,500
1910.....	10,000	37,500	43,750 00	750	1,500

As the book statement is simply an accounting to show cost of stock on hand at the time of the fire, it is apparent that the

statement can be prepared on any one of the four bases already defined, though in practice, either the first or the fourth is ordinarily used.

The four statements, therefore, are as follows:

#### 1. BOOK STATEMENT, INVOICE PRICE

Inventory, Jan 1, 1910, invoice price .....	\$10,000	
Purchases . . . . .	37,500	
		<u>\$47,500</u>

#### Contra

Net sales. . . . .	\$43,750	
Less profit over invoice price, 20 per cent ..	8,750	35,000
		<u>\$12,500</u>
Invoice price of stock burned . . . . .		\$12,500
Less 2 per cent excess of cash discount over freight....		250
		<u>\$12,250</u>
Cost of stock on hand at time of fire....		\$12,250

#### 2. BOOK STATEMENT, INVOICE PRICE, FREIGHT ADDED<sup>1</sup>

Inventory, Jan. 1, 1910, invoice price. ....	\$10,000	
Add freight, 2 per cent. . . . .	200	
Purchases . . . . .	37,500	
Freight on purchases, actual.....	750	
		<u>\$48,450</u>

#### Contra

Net sales.....	\$43,750	
Less profit over invoice price (freight added), 18.4 per cent.....	8,050	35,700
		<u>\$12,750</u>
Invoice price (freight added) of stock burned...		\$12,750
Rate of freight 2 per cent of invoice price ascertained from record of purchases		
	$\frac{\$12,750}{1.02} = \$12,500$ (Invoice price less freight)	
Rate of cash discount 4 per cent of invoice price 4 per cent of \$12,500 = \$500		
Less cash discounts . . . . .		500
		<u>\$12,250</u>
Cost of stock on hand at time of fire.. . . .		\$12,250

<sup>1</sup> This basis is seldom used, and no book statement should be so computed except for a stock on which no cash discount terms are obtainable



3. BOOK STATEMENT, INVOICE PRICE LESS CASH DISCOUNT<sup>1</sup>

Inventory, Jan 1, 1910, invoice price .....	\$10,000	
Less cash discount, 4 per cent . . . . .	400	
	<u>\$ 9,600</u>	
Purchases . . . . .	\$37,500	
Less cash discounts on purchases, actual .....	<u>1,500</u>	36,000
		<u>\$45,600</u>

## Contra

Net sales.....	\$43,750	
Less profit over invoice price (less cash discount), 23.2 per cent.....	<u>10,150</u>	33,600
Invoice price (less cash discount) of stock burned....		\$12,000
Rate of freight, 2 per cent of invoice price 2 per cent of \$12,500 = \$250		
Add freight.....		<u>250</u>
Cost of stock on hand at time of fire ..		<u>\$12,250</u>

## 4. BOOK STATEMENT, INVOICE PRICE LESS CASH DISCOUNT, FREIGHT ADDED, OR NET COST

Inventory, Jan. 1, 1910, invoice price ..	\$10,000	
Cash discount, 4 per cent . . . . .	\$400	
Freight, 2 per cent . . . . .	200	
Excess of cash discount over freight . . . . .	<u>\$200</u>	200
		<u>\$ 9,800</u>
Purchases . . . . .		37,500
		<u>\$47,300</u>
Cash discount on purchases, 4 per cent ...	\$1,500	
Freight, 2 per cent ..	<u>750</u>	
Excess of cash discount over freight ...	<u>\$ 750</u>	750
		<u>\$46,550</u>

## Contra

Net sales.....	\$43,750	
Less profit over invoice price (less cash discount, freight added) 21 6 per cent...	<u>9,450</u>	34,300
Cost of stock on hand at time of fire.....		<u>\$12,250</u>

The figures in the four statements can be used to make a comparative statement.

<sup>1</sup> This basis is also unusual, and should be used only when there are no freight charges, or when the stock is bought on a delivered basis, and the cash discounts are figured on the delivered price.

COMPARATIVE EXHIBIT SHOWING THE FOUR STATEMENTS OF LOSS MADE  
ON THE FOUR BASES OF GROSS PROFIT

	Basis 1	Basis 2	Basis 3	Basis 4
	Invoice price	Invoice price plus freight	Invoice price less cash discount	Invoice price plus freight less cash discount or net cost
Inventory, Jan 1, 1910. . .	\$10,000	\$10,200	\$ 9,600	\$ 9,800
Purchases 1910 . . . . .	37,500	38,250	36,000	36,750
	\$47,500	\$48,450	\$45,600	\$46,550
1. Sales . . . . . Contra \$43,750 Less 20 per cent Gross profit . . . . . 8,750	35,000			
	\$12,500			
2 Sales . . . . . \$43,750 Less 18.4 per cent Gross profit . . . . . 8,050		35,700		
		\$12,750		
3. Sales . . . . . \$43,750 Less 23.2 per cent Gross profit . . . . . 10,150			33,600	
			\$12,000	
4 Sales . . . . . \$43,750 Less 21 6 per cent Gross profit . . . . . 9,450				34,300
				\$12,250
1. Deduct excess cash discount over freight . . . . .	250			
2. Deduct cash discount . . . .		500		
3. Add freight . . . . .			250	
	\$12,250	\$12,250	\$12,250	\$12,250

A statement of loss can also be made by a count of units bought and sold.

## STATEMENT SHOWING LOSS BY ACTUAL COUNT

Inventory Jan 1, 1910

400 units, priced on basis 1	.	.	\$ 10,000				
basis 2	.			\$10,200			
basis 3	.				\$9,600		
basis 4	.					\$9,800	

Purchases 1910 to date of loss

1,500 units, priced on basis 1	.		\$37,500				
basis 2	.	.		\$38,250			
basis 3	.				\$36,000		
basis 4	.	.				\$36,750	

1,900 units

Contra

Sales 1910 to date of loss.

1,400 units—Their cost price

on basis 1. 1,400 at	.	\$25 00	\$35,000				
basis 2. 1,400 at		25 50		\$35,700			
basis 3. 1,400 at	.	24 00			\$33,600		
basis 4. 1,400 at		24 50				\$34,300	

500 units burned, Their aggregate cost

on basis 1	.		\$12,500				
basis 2	.	.		\$12,750			
basis 3	.	.			\$12,000		
basis 4	.	.				\$12,250	

1. Deduct excess of cash discount  
over freight

Cash discount, each unit \$1 00

Freight, each unit .. .50

Excess .. .50

500 units at 50 .. 250

2. Deduct cash discount

Cash discount each unit \$1.00

500 units at \$1.00 .. 500

3. Add freight

Freight, per unit . . . 50

500 units at 50.. .. 250

4. No changes

\$12,250	\$12,250	\$12,250	\$12,250
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**Actual Book Statements.**—The preceding sections have dealt with theoretical figures illustrating the principles on which the book statement is based. Actual figures, developed in the investigation and adjustment of a mercantile or manufacturing loss, will never show the perfect comparisons which can be made

with theoretical figures. No loss should be adjusted on the uncorroborated evidence of the books unless the stock and the premises have been so badly burned that a physical inventory cannot be taken or approximated. While books are indeed evidence bearing on the possession and cost of merchandise, they are not the conclusive evidence that is offered by the merchandise itself. At best, a statement prepared from the books is only a calculation of what ought to be on hand. If the statement is prepared shortly after the taking of an accurate inventory, the result will be more trustworthy than if it is prepared many months later, after numerous purchases and sales have operated to change the amount of stock on hand. If it covers a business in which there is little chance of pilferage, and little breakage and wastage, it will be a safer guide than for a business that suffers from these troubles.

The book statement method will be more readily understood if it is remembered that it is a substitute for a physical inventory of units at the time of the fire. The assumption upon which it is based is the uniformly effective expenditure of money; for example, in the case of a manufacturing business, it is assumed that a given expenditure will produce, under representative conditions, a given number of units. It follows that the number of units indicated by the value shown in the book statement may be distorted by changes in ratios during the period of the book statement as compared to the prior period upon which the rate of gross profit has been determined.

A manufacturing plant that maintains a fairly uniform flow of production throughout the year would ordinarily produce the same number of units at the same cost during any two periods of equal length. On the other hand, consider a seasonal business which produces one-third of its annual production during the first half of the year, and two-thirds during the remainder of the year. It is apparent that the units manufactured during the first half of the year will, on a book statement basis, carry a much larger portion of the fixed or non-variable expenses such as depreciation, insurance, rent, taxes, etc. In this case, to avoid an overstatement of stock on hand, it is necessary to reapportion the non-variable expenses before preparing the book statement.

The exhibits previously set forth to illustrate the importance of uniform treatment of cash discounts and freight on purchases in the application of the gross profit rate are indicative of the fact that all of the components are subject to inconsistencies, and that the accuracy of the book statement depends largely upon uniformity of treatment of each component.

In preparing the book statement of an actual loss it is well to bear in mind that, while the basic principles of accounting hold good with respect to all businesses, the details of bookkeeping are subject to many individual peculiarities. Add to this condition the many possible errors of omission or commission due to ignorance, together with the occasional misuse or alteration of entries to accomplish fraud, and it will be seen that the task presented can easily be full of difficulties. It is therefore necessary that errors of all kinds be eliminated from the books as early in the examination as possible, and that some understanding be acquired by the adjuster or accountant of the peculiarities of the set of books he is dealing with. Afterwards he can devote his attention to testing the authenticity of the records, and with their authenticity established, evaluate them as evidence of the cost of stock on hand.

**Inventories.**—In the ordinary course of business inventories are taken at regular intervals. An inventory serves several purposes. It furnishes a statement of stock on hand, it is a factor in the determination of the profit made since the last inventory, and it indicates, when compared with the purchase record the kinds of merchandise that have sold well and the kinds that have been hard to sell.

The problem of substantiating the insured's inventories is exceedingly important. The verification of the clerical accuracy of an inventory is the first step to be taken. This involves testing the extensions and footings, and noting whether the total of the inventory sheets agrees with the total as recorded on the general books. The next step is to verify the prices. As inventories are priced according to the varying ideas of merchants and manufactures, they will show, on investigation, various methods of pricing. Some are priced at the actual cost, others at the market price prevailing on the date of the inventory. Sometimes, though not usually, allowance is made for freight

charges and cash discounts in the individual prices. Some retail inventories are priced at a fixed percentage, or *loading*, above actual cost, which in some cases bears a close relation to the actual cost of getting the goods into the premises, *i.e.*, the cost of freight or trucking. In other cases the loading is purely arbitrary, sometimes being made to protect the merchant from too much price cutting by his salesmen. Some inventories are priced to allow for depreciation, others are supplemented by a final deduction representing the taker's idea of the depreciation existing in the entire stock. Unless the price bases of the last inventory and of the preceding inventory are the same, they should be made the same, as otherwise no accurate computation of gross profit will be possible.

In the case of a mercantile concern, inventory prices can be verified by reference to the purchase invoices. As the preparation of a book statement requires that uniform allowance be made for factors such as freight charges, cash discounts, and loading, it is essential that their influence on the inventory total be clearly established. The insured should, therefore, be asked to explain his customary method of treating inventory prices, and his explanation should be checked as closely as possible. If any appreciable quantity of merchandise is left in an identifiable condition, it should be examined for cost marks or price tags, and the figures compared with the figures on the inventory. Prices cannot always be easily verified when the insured is a manufacturer whose inventory consists of a mixture of raw materials, stock in process, and finished stock. An accurate cost record is of material assistance when available, but in most small concerns no cost record worthy of the name is found. In the absence of a cost record, a check may be made of the prices for goods in process by totaling the inventory prices of the separate finished parts of one complete unit, comparing the amount so obtained with the selling price of the unit. For example, a bed-manufacturing company had a large number of unassembled bed parts in its inventory. As no cost system was used, these parts had been priced in the inventories by guesswork for a number of years. It was found upon investigation that, by adding together the inventory prices of all the parts that went into a complete bed, a cost value in excess of the selling

price was disclosed; and this without giving any consideration to the labor cost of assembling and packing. The prices of finished stock may be subjected to the same kind of test, while the prices for raw materials may be verified in the same manner as in the case of the non-manufacturing mercantile concern.

Inventory quantities should likewise be made the subject of careful scrutiny. The procedure necessary to test them is difficult, and nearly every case requires different treatment. When there is reason to question the stated quantities of particular items, an analysis of the purchases and sales of these items may be made, if the records are complete, to verify or disprove the correctness of the stated amount. While this process may become considerably involved and tedious, it is a positive check, and the results obtained usually justify the time spent. As a case in point: while a loss in a paper warehouse was under examination it was found that scarcely any evidence remained of a large quantity of wrapping paper in rolls which the insured claimed was on hand at the time of the fire. It is a well known fact that rolls of wrapping paper are not easily obliterated, and for that reason the purchases and sales of wrapping paper for several years were analyzed in detail. This analysis resulted in the definite proof that the amount of wrapping paper on hand had been overstated 500 per cent by the insured.

When fraud is suspected, and particularly when a fire occurs shortly after the close of the fiscal year, every possible method of checking inventory quantities should be employed. A few illustrations will reveal the extent to which it is sometimes necessary to go. A large jobbing house suffered a fire loss on the first day of the year. The insured stated that the physical inventory had been taken on the afternoon of December 31. The quantities stated in this inventory seemed inordinately large, but due to the fact that some of the records had been destroyed, lost, or concealed, a check by complete analysis of purchases and sales was impossible. It was noted, however, that on many branch store requisitions certain items were marked "Back Order" by the stock clerks, indicating that these items were out of stock at the time. Subsequent purchases and shipments of these were traced, and in many instances it was found that the insured

could not possibly have had on hand the amount which was stated on his inventory. The correspondence files showed that the insured had sent the branch offices weekly bulletins which often listed the current stock shortages. These shortages were investigated, and numerous other discrepancies in inventory quantities were thus uncovered. In this manner, the purported physical inventory was sufficiently discredited to be thrown out from any consideration in determining the amount of loss. In another case the insured attempted to defraud the insurance company by arbitrarily raising the quantities of various items on the inventory sheets. He made the mistake, however, of using an indelible pencil when increasing them, while the original figures had been made with ordinary lead pencil.

It often happens that the physical inventory sheets are lost or destroyed. In such cases it is necessary to verify the entry on the general books showing the amount of the inventory. One means of accomplishing this is by obtaining dependable copies of Federal Income Tax returns, and investigating any variance between the inventory total reported for taxation purposes and the total appearing on the books. An excellent test is afforded by making a computation of the rates of turnover for several years, and comparing them. Turnover rates are computed by dividing the cost of sales by the average inventory. A comparison of the rates of turnover will sometimes clearly show that the last inventory is suspiciously large. For example, the records of an insured showed the following for successive years:

	1923	1924	1925
Cost of goods sold. . . . .	\$611,000	\$500,000	\$377,000
Average inventory. . . . .	117,000	164,000	258,000
Turnover . . . . .	5.22	3 05	1.46

Subsequent investigation proved that the 1925 inventory was padded.

Not infrequently inventory padding has been continuous for a period of years, and attention may well be directed to the prior stock-taking data. Such a condition has been found in more than one case, not necessarily in preparation for a fire, but for the purpose of misrepresenting financial condition to bankers, stockholders, or others.



If a loss occurs shortly after a physical inventory has been taken, the value of the merchandise in the inventory may constitute almost all of the value for which the insured will make claim. When this is the case, it is important to apply the items of freight and cash discount direct to the inventory. If the method followed in pricing the inventory did not provide for an increase over invoice prices to cover freight charges, and for deductions to allow for cash discount, an amount equal to the freight charge necessary to replace the stock must be added to the inventory, and the amount which would be saved by taking all cash discounts must be deducted. If the inventory consists of a few large items on which freights and discounts can be traced, the exact amount of the freight charge and of the cash discount can be determined. If, however, it consists of a great number of lots representing different kinds of goods, on which freight charges and cash discounts are not uniform, it will be necessary to use average figures. As a rule, the average rate of freight paid, and the average rate of cash discount covering a year's purchases will be equitable. These rates can be determined by examining the accounts which cover respectively purchases, freight, and cash discount. Sometimes the average rates should be modified, particularly if just before the date of the inventory there have been large purchases on which the freight charges and the cash discounts are entered in a later period, thus upsetting the yearly average. An illustration of average figures follows:

Year	Purchases	Freight	Rate Per Cent	Discounts	Rate Per Cent
1907	\$ 35,272 92	\$ 465.03	1 32	\$1,769 18	5.02
1908	24,787.50	313 88	1 27	1,256.13	5 07
1909	28,045 67	406 82	1 45	1,344 83	4 80
1910	35,684 57	465 18	1 30	1,596 37	4 47
1911					
(6 mos )	14,318 19	157 87	1.10	728 06	5 09
	<u>\$138,108 85</u>	<u>\$1,808 78</u>	<u>1 31</u>	<u>\$6,694 57</u>	<u>4 85</u>

The inventory used in the last closing of the books before the date of loss deserves special consideration because of the two-fold effect which any inflation of this inventory will have in computing the value of stock on hand. This may be illustrated by the

following example. A concern based its claim for loss on the book statement set out below:

COMPUTATION—GROSS PROFITS			
Sales .....			\$200,000
Cost of goods sold			
Inventory, Jan. 1, 1920 .....	\$ 30,000		
Purchases. . . . .	170,000		
	\$200,000		
Less inventory, Dec. 31, 1920..	50,000	150,000	
Gross profit, 25 per cent .....		\$ 50,000	
COMPUTATION—STOCK ON HAND AT DATE OF LOSS			
Inventory, Dec. 31, 1920 .....		\$ 50,000	
Purchases, Jan. 1, 1921 to date of fire... .		100,000	
		\$150,000	

*Less Computed Cost of Goods Sold*

Sales .....	\$120,000	
Less computed gross profit, 25 per cent .....	30,000	90,000
Computed stock on hand at date of fire..		\$60,000

Upon investigation it was found that the inventory of December, 31, 1920, was overstated by \$10,000, and the following corrected computation was made.

COMPUTATION—GROSS PROFIT			
Sales...			\$200,000
Cost of goods sold			
Inventory, Jan. 1, 1920.....	\$ 30,000		
Purchases. . . . .	170,000		
	\$200,000		
Less inventory, Dec. 31, 1920.....	40,000	160,000	
Gross profit, 20 per cent .....		\$ 40,000	
COMPUTATION—STOCK ON HAND AT DATE OF LOSS			
Inventory, Dec. 31, 1920. . . . .		\$ 40,000	
Purchases, Jan. 1, 1921 to date of fire . . . . .		100,000	
		\$140,000	

*Less Computed Cost of Goods Sold*

Sales .....	\$120,000	
Less computed gross profit, 20 per cent .....	24,000	96,000
Computed stock on hand at date of fire .....		\$ 44,000

It is, therefore, apparent that correcting the overstatement of the inventory, not only reduced the percentage of gross profit to

be used in computing stock on hand, but also reduced the figure used in commencing the computation. The reduced percentage decreased the final figure by \$6,000, and the reduced inventory decreased it by another \$10,000.

**Purchases.**—Under the general heading of purchases are included all cost components. In the case of a non-manufacturing enterprise these will generally be limited to merchandise, freight, and cartage. When manufacturing is carried on, there will be labor and manufacturing expenses. Purchase entries should be supported by original invoices except in those businesses which do not receive invoices for all purchases. Country stores furnish an example, as many of their purchases of local produce are made from farmers who give no invoices. The original invoice and the freight bill ordinarily furnish satisfactory evidence of purchase and receipt of merchandise. If the purchase is subject to a cash discount, the terms are usually stated on the invoice.

No unvarying method can be laid down for handling manufacturing expense. For practical purposes, it is perhaps sufficient to say that only those items are to be included which have to do solely with the production of the finished products, and that care should be taken to exclude from consideration those which have to do with their sale or with the strictly administrative affairs of the business. Manufacturing expense is subject to such difference of treatment by different accountants that it is generally necessary to reach some agreement with the insured as to the items to be included. Consistency of treatment in both the period in which the rate of gross profit is computed, and the period of the book statement, is essential. For example, if a manufacturer considers his buying expense as part of the cost of his merchandise, it is necessary to consider this buying expense as part of the cost of goods sold when computing gross profit.

The accuracy of records covering the accepted components of cost must also be established. Instances have been brought to light in which labor accounts have been padded with extraneous items, such as extra compensation to officers in profitable years, salesmen's salaries, and even alimony payments to a former wife. With cost items that are paid at intervals to cover the intervening time, it is important to check any accruals that have been

allocated in advance of actual payment. It is also important that past payments of such items be properly allocated to the period they actually cover.

Invoices for the purchases of goods, materials, or expense for supplies should be carefully checked, not only with the purchase records, but also with receiving books, express receipts, freight bills, dray tickets, or other similar records. In this manner numerous errors and attempts at fraud may be revealed. The importance of examining freight bills in conjunction with purchase invoices was forcibly emphasized in an investigation of a retail lumber-yard loss. The insured purchased most of his lumber in carload lots from distant mills. Five carload shipments were included in the claim, the invoices bearing dates earlier than the date of loss. No freight bills, however, could be located, and inquiry at the railroad offices established the fact that the cars carrying these shipments were all in transit at the time of the fire. The invoice dates indicated that the lumber might easily have been received before the fire. Another example of the importance of examining all available collateral purchase evidence was presented by the case of a small manufacturer whose purchase invoices and freight bills were all checked and found in order, indicating that the merchandise had been purchased and received before the fire. There was, however, a shortage of cartage and drayage bills, which warranted the conclusion that all of the merchandise had not been delivered at the insured's premises. Further investigation developed that the insured had much of his work done in other shops, and that these shops had on hand at the time of the fire large stocks of his merchandise. This development reduced the claim by nearly one-half.

All entries in the purchase record should be traced to their origin, as some may be found that should properly be entered elsewhere. In one instance, it was found that a \$25,000 loan was credited to the purchase account in order to keep the liability off the balance sheet. The account was debited a year later when the loan was paid. A fire loss occurred that same year, following which a claim was prepared from the books without an adjustment of the purchase account to correct the spurious entries covering the loan. The claim was therefore

overstated, not only by \$25,000 falsely charged as a purchase, but by an additional amount due to an inflated figure of gross profit computed on the false purchase reduction in the previous year. In rare cases, a purchase record has been heavily padded in anticipation of a fire by forging invoices and issuing checks to the fictitious sellers, the checks being then deposited by the maker in a private account kept under an assumed name. A case of this sort was unearthed by the study of the endorsements appearing on the checks. The endorsements were compared with the signatures, and enough similarities found to warrant investigation. Some investigations should be pushed to the extreme of interviewing the sellers whose names appear on the invoices. Merchandise may have been returned without a record, or invoices may have been deliberately raised. When sellers will allow their own records to be investigated the result will be conclusive so far as the buying of the goods is concerned unless there is collusion, which is rare.

The purchase record should also be checked against the inventory for *out-of-period items*. Such an item is presented when merchandise is received near the close of the fiscal year and included in the physical inventory, but without entry of the invoice on the purchase account until after the books are closed. If such an item is created by the last closing of the books before a fire loss, the claim will be affected not only by the inflation of the purchase record, but also by the inflation of the gross profit due to the depression of the purchase figures before the inventory. Sometimes a reversed position will be found, the invoice being entered before the books are closed, and the merchandise being omitted from the inventory because of its failure to arrive before the inventory date.

In the case of faulty or inadequate records which justify approximations of items not shown, average figures are often serviceable. Freight charges and cash discounts can be averaged with a fair degree of accuracy. These two items are often averaged when the books of a small town or country store are the subject of investigation, particularly when part of the records have been destroyed.

**Sales.**—In computing the theoretical amount of stock on hand the sales item is the third major factor. Generally, this

item is made up of both cash and credit sales, the original record of the former being in many cases the daily reading of the cash register. Credit sales are usually entered on a day book, or on sales tickets or sales invoices. The total cash sales and the total credit sales later appear in the sales account. In many establishments sales are recorded in a sales book with a carbon sheet, the carbon copy of the sales invoice being preserved as the original sales entry.

When sales records are kept accurately, it is easy to verify the sales account, but when they are not kept accurately, the problem of determining the total sales may become complex, as there is considerable possibility of manipulation. Examination of individual sales invoices and comparison with shipping records will sometimes reveal discrepancies. Occasionally it is found that large quantities of merchandise have been shipped out shortly before the fire, although copies of the sales invoices show negligible amounts. Again, shipments may be made without any sales invoices being prepared, the freight or cartage bill in such cases being the only evidence of the transaction.

During the investigation of a fire loss in a department store, a large freight bill was discovered purporting to cover the shipment of a single pair of shoes. Actually 1,461 pairs had been shipped by a dishonest employee who was using understated sales invoices to defraud the insured. Another case involved a retail lumber dealer who had sold several cars of lumber shortly before a fire loss. Delivery was made directly from the mill to the customer, an unusual procedure, as the dealer ordinarily made his sales from the yard in small quantities. The sales invoices had been made out and claim for loss was prepared according to the book-showing. A check of the records revealed that accounts receivable were out of balance with the controlling general ledger account by the exact amount of the large sale. The insured had charged the customer with the shipment but had made no corresponding credit to the sales account. This illustrates the desirability of insisting that all ledgers be in balance, or that the cause of any discrepancy be made known.

In another instance it was found that the insured was billing certain customers on cash sales tickets when, as a matter of fact, the transactions were on credit. No entry was made in connec-

tion with a sale at the time the merchandise was delivered, but when the account was paid, the cash sales account was credited. Unpaid cash sales tickets were kept as memoranda until paid. Numerous gaps in the serial numbers on these tickets brought about inquiries for the missing tickets, and developed several thousand dollars of otherwise unrecorded sales.

Inquiries may be profitably directed to the subject of consignment sales. In many instances these items are not recorded upon the books, but are merely carried as memoranda. Because of this fact they are often overlooked in computing stock on hand. When such memoranda are kept the total amount of goods on consignment should be calculated at cost prices, and deducted at the end of the statement of stock on hand.

In the search for suppressed sales it is often necessary to analyze the general ledger accounts, particularly accounts payable. Analysis should also be made of cash transactions and reconciliations of bank statements. A case was discovered in which the insured had entered his sales to a large customer as a liability under the customer's name, in lieu of a credit to the sales account. In another case the insured made no record whatever of sales to certain customers. When cash was received from these customers it was deposited in the bank but not entered in the records. This falsification of the book-showing was promptly disclosed when a reconciliation of the cash records and the bank account was attempted.

It should be borne in mind that, while it is admittedly difficult to detect manipulation of sales, the records will give in most cases some indication of irregularities when these exist. Any such indication must be noted and run down to a point at which the reason for it will become clear.

**Gross Profit Percentage.**—The percentage or ratio of gross profit is frequently the one uncertain factor in the statement of loss. The inventories, purchases, and sales can in many instances be reduced to certainty by carefully checking the records, but the ratio of gross profit which should be used to reduce sales to a basis of cost cannot always be determined with accuracy. Consequently, when the other factors have been established this one in many cases becomes a subject for agreement. In properly kept sets of books the ratio of gross profit for any given period

between inventories can be readily ascertained. But when a loss has occurred some months after the date of the last inventory, and after substantial purchases and sales have changed the quantity of stock on hand, the question arises whether the sales made after the inventory produced the same rate of gross profit as those made before. Unless the bookkeeping system shows the cost as well as the selling price of each article sold, this question cannot be answered definitely. The operating history of the fiscal year immediately preceding the loss is generally used as a basis for computing the ratio of gross profit on the theory that this year is a guide to conditions existing at the time of the loss. Since this, however, is not always the case, it is highly important that adequate consideration be given to factors operating to change the ratio. Normally the ratio of gross profit does not fluctuate greatly from year to year, and ordinarily, in the adjustment of a loss, the ratio of the preceding year is used.

Neither party to the adjustment, however, should offer to accept the ratio of the previous year, or period, until there has been a careful consideration of the factors which might operate to increase, or decrease, the ratio of gross profit made on sales following the last inventory, and thus increase, or decrease, the final showing of stock on hand. It often develops that the ratio for the period immediately preceding the loss is so distorted as to be unfit for use as a factor in determining the theoretical amount of stock on hand.

Variations in the ratio may arise from many causes, only a few of which need be mentioned. The following are to be noted:

1. Change in purchase prices, freights, or cash discounts
2. Change in selling prices necessitated by competition.
3. The period of the year represented by the sales, if one season normally shows higher profits than another.
4. The holding of special price sales.
5. The introduction or elimination of special lines of goods.
6. The prosperity or dullness of the season covered by the sales contrasted with the season before the inventory.
7. Varying methods of pricing inventories.

The first, second, and fourth of these causes need no explanation. The third may be explained by calling attention to the method prevailing in some agricultural sections where staples, sold



at a small profit, constitute the bulk of the business during the period of planting and cultivating the crops, and where luxury items bringing higher profits are sold after harvest. Number five refers to the opening up, or closing out, of lines of merchandise on which the profit is greatly above or below the average of the business. Number six involves the rise or fall in prices that accompanies unusual times, good or bad, caused by general or local influences. Number seven needs discussion. Inventories are not always made on the same basis from year to year. Instead of inventorying goods at the prices paid for them, some merchants inventory their stock according to what they deem the goods to be worth at the time of inventory. The original invoice price of each article is thus lost track of unless there is sufficient detail on the inventory to make it possible to trace the invoice. When dealing with such inventories, the ratio of gross profit becomes an uncertain factor, and if improperly calculated or applied, may work injustice either to the insured or to the insurer. If a stock is inventoried on a price basis different from that appearing on the purchase record, and the difference is not adjusted, the ratio of gross profit will be in error. This error becomes a factor to increase or decrease the amount shown by the book statement according to the increase or decrease of the price basis used in the last inventory.

To illustrate:

Assume that the merchant whose stock, on January 1, 1910, inventoried 400 units, invoice price \$25 per unit, had entered them on his inventory at a figure of \$20, a reduction justified by the market price that day. If this should pass unnoticed the rate of gross profit on an invoice price basis would be as follows:

Inventory, Jan. 1, 1909 (501 units at \$25).	\$12,525	
Purchases 1909	37,500	
	<u>\$50,025</u>	
Inventory, Jan. 1, 1910 (400 units at \$20).....	8,000	
Cost of Goods Sold (invoice price)	<u>\$42,025</u>	
Sales 1909	\$50,031.25	
Cost of Sales	42,025 00	
Gross profit.	\$ 8,006 25	
Gross profit.	\$ 8,006 25	
Sales...	\$50,031 25	= 16 per cent

Assuming the market to remain on the lower price basis until the time of the fire, and the merchant to continue his practice of marking up 25 per cent of invoice price, a book statement using the foregoing gross profit percentage gives a result materially at variance with the true state of affairs. Comparing a statement by count with a statement based on 16 per cent gross profit, and using the same figures for purchases and sales:

Actual Count	
Inventory, Jan 1, 1910—400 units at \$20 .....	\$ 8,000
Purchases to date of fire <u>1,875</u> units at \$20.....	<u>37,500</u>
2,275	\$45,500
SALES	
\$43,750 = 1,750 units at \$20 .. .....	\$35,000
\$25 per unit	
Burned . . . . . 525 units at \$20.....	\$10,500
SHOWING BASED ON PERCENTAGE OF GROSS PROFIT	
Inventory, Jan. 1, 1910.....	\$ 8,000
Purchases to date of fire.....	<u>37,500</u>
	\$45,500
<i>Less Computed Cost of Goods Sold</i>	
Net sales.....	\$43,750
Less 16 per cent gross profit .. .. .	<u>7,000</u>
	36,750
Computed stock on hand at date of fire.....	\$ 8,750
Actual loss by count.....	\$10,500
Book showing of stock .. .. .	<u>8,750</u>
Discrepancy.. . . .	\$ 1,750

Had the first inventory been priced on the lower basis and the second on the higher, the book showing would be in excess of the actual loss, the higher prices in the second inventory operating to increase the rate of gross profit. Conversely, a higher price basis in a first inventory decreases the rate.

It sometimes happens that a business makes an unusually high gross profit in a given year because of a single and highly profitable transaction. As an example:

A wholesale grocery company suffered a fire loss and presented a claim based on a gross profit of 12.13 per cent, which was the operating experience of the year preceding the loss. It was found, however, that for many years the percentage of gross profit had been in the neighborhood of 6 per cent, and that the increase for the year before the loss had been caused almost

entirely by transactions in the sugar market. Since no such transactions had been made during the year of the fire, the insured's claim was adjusted on the basis of a 6 per cent gross profit, which materially reduced the amount of the loss.

When a business is losing ground and its sales are decreasing, it is usually found that the ratio of gross profit shows a yearly decrease. In such cases the rate of decrease should be ascertained, and the ratio of gross profit adjusted accurately for use in determining stock on hand.

Any marked change in the character of the sales produces a corresponding fluctuation in the gross profit ratio. An excellent example of the effect of such a change was noted in the case of a concern which did both wholesale and retail business. In 1925, the sales were divided as follows:

	Retail	Wholesale	Total
Sales . . .	\$300,000	\$100,000	\$400,000
Cost of goods sold . . . . .	210,000	85,000	295,000
Gross profit . . . . .	\$ 90,000	\$ 15,000	\$105,000
Percentage of gross profit . .	30 per cent	15 per cent	26 3 per cent

During 1926 a fire occurred. Sales to the date of the fire had been \$200,000, and a claim was filed using the average gross profit for 1925 of 26.3 per cent or \$52,600. An analysis of the sales showed, however, that the proportions of wholesale and retail sales had materially changed, and the loss was recomputed using the separate ratios of 30 and 15 per cent as follows:

	Retail	Wholesale	Total
Sales .	\$100,000	\$100,000	\$200,000
Gross profit . .	30,000 (30 %)	15,000 (15 %)	45,000 (22 5%)
Cost of goods sold	\$ 70,000	\$ 85,000	\$155,000

Thus the greater proportion of low profit wholesale volume in 1926 depressed the general gross profit ratio from 26.3 to 22.5 per cent, and the original loss claim was therefore overstated by \$7,600. The same result is found when a concern sells a number of different products at varying rates of gross profit, and the proportion that each bears to the total sales varies between different years.

Because of the foregoing situations, which are not uncommon, and in spite of the fact that the experience of prior periods is always of value, it is nevertheless important to effect some sort of *direct* check on the actual gross profit. This may be done by analyzing the cost of the sales of the period in which the loss occurs. The method may be illustrated as follows.

Sales invoice No.	Selling price	Cost	Gross profit
1	\$100	\$ 75	\$ 25
2	175	110	65
3	228	202	26
4	145	105	40
	<u>\$648</u>	<u>\$492</u>	<u>\$156</u>

The gross profit is, 156/648, or 24.1 per cent. Should this agree substantially with the ratio experienced during the prior year, it is reasonable to assume that no radical change has occurred in the relation of selling prices to material prices, labor costs, or other items, and that the prior year's ratio is being repeated.

The number of sales invoices to be analyzed depends entirely upon the individual case. When sales are large and few in number, all sales invoices should be analyzed. When, however, the number of sales invoices runs into the thousands, complete analysis may be impracticable. In this event it is best to analyze *all* of the sales for a certain period; two weeks, a month or two months. Care should be exercised to cover a representative group of sales; otherwise the test will be ineffective. If a concern sells five different products in about equal amounts it is insufficient to test a group of sales of only two or three of the products.

Cost prices may be obtained in non-manufacturing businesses from purchase invoices on file. For manufacturers the cost prices may be obtained from the cost records, if these are accurately maintained. It is sometimes necessary to build up the cost of each article by a compilation of the costs of the separate items entering into its fabrication.

**Determination of Stock on Hand by Quantity Analyses.—**

From the comments on the accuracy of the book statement, it follows that radical changes in the business may render the book statement method inequitable as a basis upon which to ascertain the value of merchandise on hand at the time of a fire. For example, a young and undeveloped business which is growing rapidly might find that its profits during the first year, or during an experimental period, would not be representative of conditions for a subsequent period.

In such instances, particularly if the business is small, and such factors are therefore more likely to cause appreciable variances, a method of determining the merchandise on hand by quantity analysis may sometimes be used with greater accuracy. The procedure in such a computation is as follows.

1. Segregate the last physical inventory into units of each product.
2. Add thereto the respective quantities purchased or manufactured during the period under review, as determined by an analysis of purchase invoices or production records
3. Deduct the net quantities of each product sold or shipped, as revealed by an analysis of shipping records or sales invoices.

The result of such a compilation is in reality the formulation of a perpetual inventory record in the form of totals by products on hand at the date of the fire, based upon the recorded transactions of the insured during the period subsequent to the last physical inventory. This method is especially practical in the case of a jobber or manufacturer dealing in a small number of products. It may also be applied to small businesses where complete general records are not often available, such as that of a dealer in raw hides, or in automobile tires.

Quantity analysis is highly desirable in all instances where the work involved is within reasonable limits. Whenever physical inventories are suspected of being fraudulent, a quantity analysis

in accordance with the foregoing outline offers a workable basis by which such inventories may often be proved fictitious. In such a compilation, it is usually necessary to consider only a few of the principal products making up the major value of the purported physical inventory.

**Perpetual Inventories.**—A perpetual inventory record of stock is sometimes kept in addition to the general books. Roughly, this record is a running list of stock on hand against which are recorded the units purchased and sold. When the unit of value is large, as in the heavy machinery, or precious stones, business, the perpetual inventory method is generally an effective means of stock control. But when an attempt is made to adapt this scheme to a business having rapid turnover and units of small individual value, inaccuracy and unreliability may be anticipated. It is no exaggeration to state that, although 90 per cent of the perpetual inventories in use are manifestly ill adapted to the business involved, claim is usually made for the open or unsold items in this record. On the other hand, where the perpetual inventory is controlled by, or balanced with, the general books, and is also substantiated by periodical physical inventories, it is a proper basis for loss computation. In such event it is desirable that *all* purchases and *all* sales be individually checked to the record before it is accepted as correct. As a counter-check, it is advisable that verification be effected by the preparation of a regular book statement from the general books and physical inventories.

An accurate perpetual inventory record may also serve to disclose errors in the general books, and it is desirable to reconcile the two, whenever possible. In one instance, a perpetual inventory record reflected a value at the time of the fire which was \$15,000 in excess of the book statement. Inasmuch as a few minor errors were noted in the perpetual inventory record, it was first believed that the record was unreliable. An attempt was then made to reconcile the perpetual stock record with the general books, as of the date of the last physical inventory. A large error was disclosed, which had resulted in a considerable understatement of the physical inventory. The correction of this error affected the rate of gross profit and the book statement to such an extent that the value as

shown by the perpetual inventory record at the time of the fire was substantiated.

Further use of the perpetual inventory record may be made to ascertain the salability of merchandise on hand. For example, the inclusion of a quantity of obsolete machine parts may be revealed by the date of the last entries and by the absence of any recent credits for withdrawals for assembly purposes.

In the majority of cases, the perpetual inventory record is merely a memorandum of problematical utility, as in the case of a clothing company which recently made claim for a loss of \$29,000 on the basis of its perpetual inventory record. It was found that this record had been kept in a generally slipshod manner, and when compared with the last physical inventory, the following discrepancies were revealed:

	Physical inventory	Stock record	Difference
Woolens . . .	\$19,687 46	\$29,570 09	\$ 9,882.63
Finished goods, overcoats .	2,066 50	5,926 75	3,860.25
Finished goods, suits ...	4,950 00	6,911 09	1,961.09
	<u>\$26,703 96</u>	<u>\$42,407 93</u>	<u>\$15,703 97</u>

Upon examination, errors of the following nature were disclosed:

1. Purchases were entered in duplicate, and often quantities were not as represented on purchase invoices.

2. Sales were not always recorded against the perpetual inventory.

3. Cost prices were incorrectly stated

4. Items were always carried at original cost, although some were several years old and were almost entirely without value

These errors were sufficient to eliminate this record from further consideration, and a computation by the gross profit method reduced the loss from \$29,000 to slightly over \$9,000.

Occasionally the surprising discovery is made that no general records worthy of the name have ever been maintained. Such was the case in a recent claim of over \$100,000. The insured was engaged in the sale of articles whose unit values were sufficiently large to warrant his using the perpetual inventory

method. He kept no general books, had no purchase or sales invoices, had lost or misplaced most of his bank statements, and had never filed a Federal Income Tax return. His stock record was what might be termed a rudimentary perpetual inventory or stock book. In it he listed his purchases individually and, when an article was sold, supposedly crossed it from the list. His claim was based upon the open items in this book, over one-thousand in number. Analysis of all cash resources and transactions brought out the fact that he had apparently paid for purchases of at least \$60,000 in excess of his total available cash. No additional funds had been invested in the business, and, therefore, either sales were understated or purchases overstated. An inspection of the scene of the fire made it doubtful that 1,000 articles could have been on hand. The insured sold both locally and by mail order; about one-third locally and two-thirds by mail order. Express shipping receipts in large quantity were accidentally located, and while no single receipt could be identified with the shipment of a particular unit, the number of receipts could be compared with the number of sales month by month. For some months it was found that the receipts were in excess of the recorded sales, and the test as a whole indicated that mail-order sales were understated by at least one-third.

While no purchase invoices were available at the insured's premises, duplicates were obtained direct from the manufacturers, and by comparison with the so-called stock book, it was discovered that the recorded costs were excessive and that numerous invoices were duplicated. These disclosures sufficed to eliminate the stock book as a basis for loss computation.

**Retail Inventory Method.**— The fact that department stores have almost all adopted a special system of merchandise accounting, justifies the inclusion of a brief discussion of this system, which is known as the *retail inventory method*.

The problem of stock control in an establishment of this nature, with its rapid turnover, its numerous selling items and its many sales and other merchandising schemes, is quite apparent. When the problem is to be correctly solved by means of the retail inventory method a high degree of accuracy in record keeping is necessarily required. The value of stock



on hand determined by this method is almost as accurate as that determined by means of a physical inventory with correct unit prices for the units counted, weighed, or measured

In order that this problem may be intelligently discussed, the following brief summary of the steps involved is presented.

	Cost	Selling	Mark-up
Inventory, beginning of period....	\$1,000 00	\$1,500 00	\$ 500 00
Purchases, during period (net) ....	2,150 00	3,000.00	850 00
"Mark-ups," after "sales," etc....	0	100 00	100 00
	<u>\$3,150.00</u>	<u>\$4,600 00</u>	<u>\$1,450 00</u>
Percentage of mark-up (to selling)	$1450 \div 4600 = 31.522$		
Sales, during period (net) . . . . .	?	2,675 00	?
"Mark-downs," for "sales," etc	?	250 00	?
	<u>\$2,002 98</u>	<u>\$2,925 00</u>	<u>\$ 922 02</u>
Inventory—end of period .. .	<u>\$1,147 02</u>	<u>\$1,675 00</u>	<u>\$ 527 98</u>

There are certain points illustrated by the foregoing which are worthy of considerable emphasis:

(a) This method is an almost perfect example of the "book inventory."

(b) Depreciation is automatically accounted for.

The method obviously requires that all inventories and purchases be recorded at both the cost and the selling price, that additional "mark-ups" be considered in the light of purchases at 100 per cent profit on selling price, and that "mark-downs" be treated as sales. At the end of any given period the resulting percentage relationship between the cost column and the selling-value column may be assumed to be the percentage relationship between the sales made during the period and the cost of these sales.

However when the retail inventory method is not correctly applied, the showing of stock on hand will not be substantiated by an actual physical inventory. A large department store recently suffered a fire loss of considerable amount. Upon investigation it was found that "mark-downs" were habitually considered as deductions from the accumulated "selling" total instead of being considered as sales. To illustrate the effect of this procedure, the foregoing example has been re-computed according to the method employed by this insured:

	Cost	Selling	Mark-up
Inventory, beginning of period .	\$1,000 00	\$1,500 00	\$ 500 00
Purchases, during period (net) . .	2,150 00	3,000 00	850 00
"Mark-up," after "sales," etc. .	0	100 00	100 00
	<u>\$3,150.00</u>	<u>\$4,600.00</u>	<u>\$1,450 00</u>
Less "mark-down" for "sales," etc	<u>\$3,150 00</u>	<u>250.00</u>	<u>250 00</u>
		<u>\$4,350 00</u>	<u>\$1,200 00</u>
Per cent of mark-up $\$1,200 \div \$4,350 = 27.586$			
Sales . . . . .	<u>\$1,937 07</u>	<u>\$2,675 00</u>	<u>\$ 737 93</u>
	<u>\$1,212.93</u>	<u>\$1,675 00</u>	<u>\$ 462 07</u>

It will be noted that the stock on hand (at cost) computed by this method amounts to \$1,212 93, as compared with \$1,147.02. In this particular loss the inventories were very large, and the resultant over-statement of the claim was not inconsiderable.

**Depreciation.**—If the ratio of gross profit used in preparing the statement of stock on hand has been determined from transactions between inventories which were made without allowance for depreciation, the statement will show the theoretical cost of the stock. If, however, accurate allowances for depreciation have been made in each inventory, the ratio of gross profit will produce a statement showing the theoretical depreciated cost of the stock. But if one inventory has been reduced to take depreciation into account and the other has not, the ratio of gross profit will produce a statement showing a larger or smaller theoretical amount than should be shown. If the first inventory is depreciated a higher gross profit ratio is shown; if the second, a lower.

**Conclusion.**—It should be borne in mind that, while the principles of determining the value of stock on hand have been briefly illustrated in the foregoing sections of the present chapter, some new application of these principles may have to be made to a problem presenting details that have not been discussed. Any set of books is apt to contain unusual entries which must be carefully considered before being used in preparing the loss statement. These, however, are not the real difficulties which face the adjuster and the accountant. The real difficulties are those which are presented by the simple questions, do the

entries on the books truly represent what has happened in the history of the business, and do they truly represent *all* that has happened? The problem of analyzing a complicated set of records is usually easier than the problem of substantiating or disproving the authenticity or completeness of a suspected set.

Although any one of the procedures outlined for the determination of stock on hand may be adequate in a specific instance, it is desirable to use, wherever possible, more than one of the methods suggested. The result shown by one procedure may often be either substantiated or disproved by a detailed comparison with the figures resulting from the application of a different method.

## FORM A—COMPUTATION—GROSS PROFIT AND COST OF GOODS SOLD

## The Shade Manufacturing Company

Year Ended Dec 31, 1919

Gross sales			\$853,835 17
Less discount and allowance on sales			12,694 26
Net sales			841,140.91
Cost of goods sold			
Inventory, Jan. 1, 1919.	\$ 47,950 04		
Purchases			
Mirrors ....	\$ 7,677 10		
Shades.. ...	184,571 48		
Lamps	156,210 24		
Wrought iron	74,848 51	\$423,307 33	
Less discount on purchases...	12,292 14	411,015 19	
Labor			
Shades ... ..	94,372 06		
Lamps . . . .	93,301 27		
Wrought iron ...	35,407 36	223,080 69	
Manufacturing expenses, etc.			
Depreciation, machinery	4,500 88		
Rent . . . .	22,427 16		
Machinery maintenance	3,451 09		
Light, heat and power	5,562 86		
Insurance	7,273 82		
Freight, express and cartage	6,965.30		
General manufacturing expense .....	1,002 25		
Designing .....	7,284 26	58,467 62	
		740,513 54	
Less inventory, Dec. 31, 1919 .. ..	101,934 48	638,579 06	
Gross profit (24.08 per cent of net sales)			<u>\$202,561 85</u>

## FORM B.—COMPUTATION—MERCHANDISE VALUE AT DATE OF LOSS

The Shade Manufacturing Company

March 9, 1920

Inventory, Dec. 31, 1919. . . . .	\$101,934.48		
Purchases			
Mirrors. . . . \$	507.59		
Shades .. . . .	36,063.38		
Lamps.. . . .	27,161.08		
Wrought iron . . .	23,422.00	\$ 87,154.05	
Less discount on purchases . . . .	1,702.84	85,451.21	
Labor			
Shades . . . . .	16,138.13		
Lamps . . . . .	15,955.55		
Wrought iron . . . . .	6,055.23	38,148.91	
Manufacturing expenses, etc.			
Depreciation, machinery.. . . .	923.58		
Rent .....	3,927.67		
Machinery maintenance.....	349.35		
Light, heat and power.....	985.96		
Insurance.....	438.38		
Freight, express and cartage ..	1,874.93		
General manufacturing expense	222.93		
Designing .....	712.43	9,435.23	\$234,969.83
Deduct computed cost of goods sold			
Sales. . . . .	127,798.53		
Less discount on sales .....	2,660.05	125,138.48	
Deduct computed gross profit (24.08 per cent of net sales) (See Form A)		30,133.35	95,005.13
Total computed merchandise value.....			\$139,964.70
Deduct			
Inventory at 1516 Montpeher Street not touched by fire ..		67,497.43	
Total computed merchandise value at 442 N. 8th Ave.		72,467.27	
Add			
Computed inventory of shipping supplies.....		5,150.90	
Total computed merchandise value at 442 N. 8th Ave., March 9, 1920 . . . . .		77,618.17	
Deduct			
Agreed value of salvage .. . . .		9,423.05	
Merchandise value destroyed .....			<u>\$ 68,195.12</u>

## FORM C.—COMPUTATION—GROSS PROFIT AND COST OF GOODS SOLD

The Jobbers Merchandise Company

Year Ended December 31, 1919

Gross sales .....		\$464,396 93
Less: Discount on sales .....	\$ 9,078 07	
Allowances .....	147 37	
Out-freight and drayage .....	4,710 17	13,935 61
Net sales .....		<u>\$450,461 32</u>
Cost of goods sold		
Inventory, Jan. 1, 1919 (beginning) .....	\$ 29,463 20	
Merchandise purchased .....	\$492,891 60	
Less discount on purchases .....	5,815.94	487,075 66
In-freight and drayage.....	4,813 80	
	<u>\$521,352 66</u>	
Inventory, Dec. 31, 1919 (ending) .....	119,031 40	402,321 26
Gross profit (10.69 per cent of net sales)		<u>\$ 48,140 06</u>

## FORM D.—COMPUTATION—MERCHANDISE VALUE AT DATE OF LOSS

The Jobbers Merchandise Company

March 13, 1920

Merchandise inventory, Dec. 31, 1919 ..	\$119,031.40	
Merchandise purchased .....	\$48,376 17	
Less discount on purchases .....	737 36	\$47,638 81
In-freight and drayage .....	429 37	48,068.18
		<u>\$167,099 58</u>
Deduct computed cost of goods sold		
Gross sales .....	56,511 45	
Less discount on sales..	1,133 24	
Allowances .....	71 99	
Out-freight and drayage .....	694 33	1,899 56
		<u>54,611.89</u>
Less computed gross profit (10 69 per cent of net sales) (See Form C) .....	5,838 01	48,773 88
		<u>118,325 70</u>
Deduct:		
Merchandise in transit and on consignment .....	7,519 50	
Total computed merchandise value on hand, March 13, 1920		<u>110,806 20</u>
Deduct:		
Agreed value of salvage .....	32,500 00	
Merchandise value destroyed.. .....	<u>\$ 78,306 20</u>	

## CHAPTER VII

### PROFITS AND COMMISSIONS

**General.**—Insurance of profits and commissions is usually effected under one of the forms which follow, or under a form which is similar in its conditions.

NEW YORK FIRE INSURANCE EXCHANGE PROFITS AND COMMISSIONS  
FORM NO. 1 RATE SAME AS STOCK

\$... . on profits and/or commissions on finished merchandise,  
sold or unsold, while contained in. . . . .

If during the term of this policy such merchandise, or any portion thereof, shall be destroyed or damaged by fire, this Company shall be liable for its pro rata share of any loss of profits and/or commissions (to be ascertained as stated below) on such merchandise which may result from such fire.

The loss of profits shall be computed as follows: (1) The percentage of loss or damage to merchandise shall be first ascertained; (2) the profits and/or commissions on such merchandise shall be then ascertained; (3) the company shall then be liable for its pro rata share of such percentage of the loss of profits and/or commissions as equals the percentage of loss on merchandise.

The percentage of loss to merchandise which may result from such fire shall be the percentage of damage as shown by the final outcome of the adjustment of the loss on merchandise by companies insuring the same, including the result of any salvage handling operations, whether completed before or after such adjustment, or if there be no insurance on such merchandise, then by such ascertainment and estimate by the parties hereto as is provided for in the printed portion of this policy. The loss of profits and/or commissions payable hereunder shall in no event exceed the profits and/or commissions that would have been receivable by the insured on the date of the fire from the sale of the damaged and destroyed merchandise in the ordinary course of the insured's business.

Where the word "property" is used in this policy or clauses attached hereto, it is understood to mean commissions and/or profits on the merchandise described.

NEW YORK FIRE INSURANCE EXCHANGE PROFITS AND COMMISSIONS  
FORM NO. 2 RATE DOUBLE THAT ON STOCK

\$ . . . on profits and/or commissions on merchandise, sold or  
unsold, while contained in . . . . .

"If during the term of this policy, the said merchandise or any portion thereof shall be destroyed or damaged by fire, this Company shall be liable for its pro rata share of any ascertained loss of profits and/or commissions on the said merchandise which may result from such fire, not exceeding its pro rata share of an amount equal to the profits and/or commissions on said merchandise which would have been receivable by the insured if the said merchandise had been sold in an undamaged condition on the date of the fire at the insured's usual rate of profits and/or commissions."

Where the word "property" is used in this policy or clauses attached hereto, it is understood to mean commissions and/or profits on the merchandise described.

CHICAGO BOARD STANDARD

FORM NO. 2

PROFITS AND/OR COMMISSIONS FORM  
RATE—MERCHANDISE RATE

\$ . . . . On profits and/or commissions on finished merchandise,  
sold or unsold, while contained in . . . . .  
. . . . . building(s), or on the premises  
situated . . . . .

. . . . . Chicago, Illinois  
and while on or under sidewalks or platforms, on streets or alleys, in  
yards and in or on vehicles or cars in the open, all while adjacent to the  
above described premises.

Profits for the purpose of this contract is hereby defined to be the excess of the price which would have been received by the insured over the cost to the insured at the time of the fire to replace the described merchandise with merchandise of like kind or quality

If during the term of this policy, fire damages or destroys the described merchandise, this company shall be liable under this policy for its proportion of the actual loss of profits and/or commissions sustained by the insured, but if the insured is able to continue sales by the use or acquirement of other merchandise, this company shall not be liable for more than its proportion of the actual loss of profits and/or commissions resulting from an actual loss of sales and/or a reduction in the amount of profits and/or commissions derived from actual sales.

It is a condition of this insurance that as soon as practicable after any loss, the insured shall make use of or acquire other merchandise, if obtainable for the purpose of continuing sales, if by so doing the amount of loss hereunder will be reduced and in the event of loss being so reduced, such reduction shall be taken into account in arriving at the amount of loss hereunder.

The liability hereunder shall not exceed the amount of insurance by this policy, nor a greater proportion of any loss than the insurance hereunder shall bear to all insurance, whether valid or not, and whether collectible or not, covering in any manner the loss insured against by this policy.

It is a condition of this insurance that in case the insured and this Company are unable to agree as to the value of profits and/or commissions and/or the amount of loss under this policy, the same shall be determined by appraisal in the manner provided by the policy to which this form is attached, the provisions of which policy shall govern in all matters pertaining to this insurance, except as herein otherwise provided.

**Contribution Clause :** In consideration of the rate and/or form under which this policy is written, it is expressly stipulated and made a condition of this contract that, in the event of loss, this Company shall be liable for no greater proportion thereof than the amount hereby insured bears to eighty (80).....per cent of the sum of the profits and/or commissions which would have resulted from the sale in an undamaged condition of all of the above described merchandise on hand at the time of the loss.

Where the word "property" is used in this policy or clause attached hereto, it is understood to mean profits and/or commissions on the merchandise described.

#### CHICAGO BOARD STANDARD

#### FORM NO. 2A

#### PROFITS AND/OR COMMISSIONS (NET) FORM RATE—MERCHANDISE RATE

\$.. . . . On net profits and/or net commissions on finished merchandise, sold or unsold, while contained in.....  
 .. . . . building, or on the premises situated ..  
 .. . . . Chicago, Illinois and while or or under sidewalks or platforms, on streets or alleys, in yards and in or on vehicles or cars in the open, all while adjacent to the above described premises.



If during the term of this policy fire damages or destroys the described merchandise, this company shall be liable under this policy for its proportion of the actual loss of net profits and/or net commissions sustained by the insured, but if the insured is able to continue sales by the use or acquirement of other merchandise, this company shall not be liable for more than its proportion of the actual loss of net profits and/or net commissions resulting from an actual loss of sales and/or a reduction in the amount of net profits and/or net commissions derived from actual sales.

It is a condition of this insurance that as soon as practicable after any loss, the insured shall make use of or acquire other merchandise, if obtainable, for the purpose of continuing sales, if by so doing the amount of loss hereunder will be reduced and in the event of loss being so reduced, such reduction shall be taken into account in arriving at the amount of loss hereunder.

The liability hereunder shall not exceed the amount of insurance by this policy, nor a greater proportion of any loss than the insurance hereunder shall bear to all insurance, whether valid or not, and whether collectible or not, covering in any manner the loss insured against by this policy.

It is a condition of this insurance that in case the insured and this Company are unable to agree as to the value of net profits and/or net commissions and/or the amount of loss under this policy, the same shall be determined by appraisal in the manner provided by the policy to which this form is attached, the provisions of which policy shall govern in all matters pertaining to this insurance, except as herein otherwise provided

**Contribution Clause:** In consideration of the rate and/or form under which this policy is written, it is expressly stipulated and made a condition of this contract that, in the event of loss, this Company shall be liable for no greater proportion thereof than the amount hereby insured bears to eighty (80) . . . . . per cent of the sum of the net profits and/or net commissions which would have resulted from the sale in an undamaged condition of all of the above described merchandise on hand at the time of the loss.

Where the word "property" is used in this policy or clauses attached hereto, it is understood to mean net profits and/or net commissions on the merchandise described.

The purpose of these forms is to cover:

1. Profits, the difference between the cost of merchandise and its selling price.

2. Commissions which the insured would earn by selling the merchandise, when he is handling it on a commission basis.

As the cover is limited to profits or commissions on merchandise actually on the premises at the time of fire, the effect of profit insurance, when written in connection with insurance on the merchandise itself, is to make it possible for the insured to collect, in case of total loss, the same amount of money that he would have received had he sold the merchandise.

Profits insurance is still the subject of much controversy. Forms have been changed from time to time, but have not yet been developed to the stage where they satisfy all demands. Underwriters do not agree on what they cover, or on how profit losses should be adjusted. It is not within the scope of this book to discuss the controversy, beyond noting unsettled questions that bear directly on loss adjustments.

Insurance written under the *New York Fire Insurance Exchange Profits and Commissions Form No. 1* is similar to *chomage* insurance, a form of insurance written in France and Spain. *Chomage* insurance undertakes to pay the insured an agreed percentage of the property loss. He collects the property loss under the policy covering the property itself, and, in addition, the payment under the *chomage* policy. Under New York Form No. 1 the insured will collect a sum based on:

1. The percentage of loss or damage to the merchandise, whether it is retained by the insured, or is taken by the insurer and salvaged.

2. The rate of profits or commissions on the merchandise lost or damaged.

It should be kept in mind that loss of profits and commissions is not always in the same proportion as damage to the merchandise itself. Establishments which sell high priced articles would probably experience as much difficulty in disposing of merchandise damaged 25 per cent as they would experience in disposing of merchandise damaged 35 per cent. It should also be kept in mind that the insured is deprived of making any profit or commissions on merchandise salvaged. In case of salvaging the insured's recovery under New York Form No. 1 is limited to the same percentage of the profits as the percentage of

loss on the merchandise, although his actual loss of profits is 100 per cent.

Insurance written under *New York Fire Insurance Exchange Profits and Commissions Form No. 2* does not limit the recovery to the percentage of damage suffered by the merchandise. Under this form a company insuring profits would be liable for the full profit loss on any merchandise taken over by the company insuring the merchandise, although the salvaging operations might show that the merchandise had suffered only a slight damage.

It is therefore apparent that a policy written under such a form as New York No. 1 or New York No. 2 is not a contract of indemnity. The recovery made under New York No. 1 is, in case of salvage operations, seldom equal to the actual profit loss on the merchandise involved. Under either form, however, the insured may collect a payment when merchandise is salvaged, and thereafter promptly replace the merchandise and continue sales. When this occurs, the only real profit loss which the insured sustains is that on the few sales prevented by the fire, but the amount he collects is based on the amount of merchandise salvaged. When the amount of merchandise salvaged exceeds the amount that would have been sold but for the delay in replacement, the amount collected under New York Form No. 2 exceeds the real profit loss. Conversely, when the amount of merchandise that would have been sold exceeds the value of the merchandise salvaged, the amount collected is less than the real profit loss.

The *Chicago Board Standard Profits and/or Commissions Form No. 2*, and the *Chicago Board Standard Profits and/or Commissions Form No. 2A*, depart radically from the two forms of the New York Fire Insurance Exchange, in the following provisions:

If the insured is able to continue sales by the use or acquirement of other merchandise, this company shall not be liable for more than its proportion of the actual loss of profits and/or commissions resulting from an actual loss of sales and/or a reduction in the amount of profits and/or commissions derived from actual sales.

It is a condition of this insurance that as soon as practicable after any loss, the insured shall make use of or acquire other merchandise, if obtainable, for the purpose of continuing sales, if by so doing the amount

of loss hereunder will be reduced, and in the event of loss being so reduced, such reduction shall be taken into account in arriving at the amount of loss hereunder.

These provisions make policies to which Chicago Board forms are attached, contracts of indemnity.

Under Chicago Form No. 2, a point is settled which is open to argument under the New York forms. Chicago Form No. 2 defines profits.

. . . to be the excess of the price which would have been received by the insured over the cost to the insured at the time of the fire to replace the described merchandise with merchandise of like kind or quality.

Under Chicago Form No. 2A the loss is limited to "net profits, or net commissions" but no definition of "net profits" "or net commissions" is given.

**Adjustment Factors.**—In the adjustment of a profits loss, any of the following factors may require determination:

1. Actual cost of all, or any part, of the merchandise on hand.
2. Replacement cost.
3. Selling price.
4. Rate of commission on sales.
5. Damage to the merchandise.
6. Expense of selling the merchandise.
7. Selling expense avoided because of the fire.
8. Ability of the insured to use or acquire promptly, other goods, and to continue sales.

If the merchandise has not been too badly burned to be identified, the first three factors can be determined by making an actual inventory. Since merchandise is seldom uninsured, the adjuster handling the profits loss can usually obtain a copy of the inventory on which the merchandise loss was adjusted. If the rate of profit is the same on every article, and if the replacement cost is the same as the actual cost, the profit can be determined in one calculation by applying the rate of profit on cost to the amount shown by the footing of the inventory. If, for example, the inventory totals \$10,000 and the markup is 20 per cent on each article, the total of the profits will be \$2,000.

If the merchandise has all been destroyed, the cost should be determined by a book statement. An estimate of replacement

cost can be made by increasing or decreasing the book statement according to advances or declines in market prices which may have occurred since the taking of the inventory, or since the dates of the purchases shown in the book statement. The rate of profit over cost, not over sales, should then be applied to the book showing of stock on hand. This calculation will show the profit that would ordinarily accrue from selling out the contents of the store.

The rate of commission on sales is to be determined by an examination of the contract between the holder, or seller, of the merchandise and the owner. If the merchandise is being sold under an oral agreement, the rate of commission as stated by the seller can usually be confirmed by making an examination of the record of his sales.

Damage to the merchandise, a factor which is considered only in connection with forms similar to New York No. 1, is almost always determined by the adjustment made under policies covering direct damage to the merchandise. Information covering this factor can be had from the adjuster handling the loss on the merchandise.

The expense of selling the merchandise in the usual course of business is ordinarily shown on the books of the seller.

The expense which will be avoided after a fire consists of those charges which will not be incurred after the merchandise has been destroyed or has been surrendered to the insurers. Thus, if sales people are paid a commission out of the selling price, this commission will not have to be paid on the merchandise destroyed or surrendered to the companies insuring it. Such expenses as packing and delivery charges will not be incurred.

The possibility of the insured's being able to use, or acquire, other merchandise and to continue sales, is a matter requiring an investigation of the source of supply and market conditions.

**Unsettled Questions.**—There has been little litigation under profits and commissions covers. The few cases tried have left the following questions unsettled under forms similar to New York Fire Insurance Exchange Forms No. 1 and No. 2:

1. What is profit? Is it the difference between the actual cost and the selling price, or is it the difference between the cost of replacement and the selling price?

2. Is gross profit or net profit the measure of loss? Should the same measure of loss be assumed in losses of slight extent when the expense of trading is not reduced as a result of the loss, as in losses large enough to cause a cessation of business and a consequent reduction of expense?

3. How should New York Form No. 2 be construed in losses in which the owner or holder retains the damaged merchandise to be sold as he may see fit? Shall it be assumed that he has lost the entire profit or commission because the merchandise must be sold at the prices prevailing for damaged goods (assumed here to be less than cost), or shall it be assumed that some percentage of the sales is to represent a profit which shall be credited against the normal profit in making the adjustment?

4. What is the basis of coinsurance or average? Is it gross profit or net profit?

As there has been no adjudication of the questions listed, the opinions which are here expressed must not be considered as final. They are shared by a large number of adjusters, and are based on the idea that the principle of indemnity should, as far as possible, under the declarations of the forms control the adjustment of profits and commissions losses.

It is the opinion of the author that, in a profits loss, the adjustment must fix the amount of profit as the difference between selling price and replacement cost. The definition in Chicago Form No. 2 is in accord with this opinion. If the merchandise itself is insured, the amount recoverable from the merchandise will be, as a rule, the cost of replacement.

Assume that cloth was bought at \$1.00 a yard, that to replace it would cost \$1.50, and that it was being sold at \$2.00 a yard when the loss occurred. If the profits loss be taken as the difference between actual cost and selling price, the owner would receive from his profits policy \$1.00 a yard which, added to the \$1.50 a yard received from his merchandise policy, would make a total of \$2.50, or 50 cents more than the selling price of the cloth. This would be an overpayment.

To illustrate:

Selling price	\$2 00
Actual cost	1 00
Payment under profits policy on this basis	1 00
Replacement cost collected under merchandise policy	1 50
Total paid by both policies	2 50
Selling price, as above	2 00
Excess payment	\$ 50

If the loss occurred on a falling market, with the same original cost of \$1.00 a yard, but with replacement cost and selling price 75 cents and \$1.25 respectively, the profits loss, if taken as the difference between actual cost and selling price would be 25 cents a yard. This added to the replacement cost of 75 cents would give a total payment by the two policies of \$1.00 a yard, or 25 cents less than selling prices. This would be an underpayment.

To illustrate:

Selling price	\$1 25
Actual cost	1 00
Payment under profits policy on this basis	25
Replacement cost collected under merchandise policy	75
Total paid by both policies	\$1 00
Selling price as above	\$1 25
Total paid as above	1 00
Underpayment	\$ 25

In either of the above cases, the profits, if assumed to be the difference between replacement cost and selling price, will, when added to the replacement cost, produce a sum equal to the selling price. This is the end sought by profits insurance.

To illustrate:

FIRST CASE

Selling price	\$2 00
Replacement cost	1 50
Payment under profits policy on this basis	50
Replacement cost collected under merchandise policy	1 50
Total paid by both policies	\$2 00

## SECOND CASE

Selling price . . . . .	\$1.25
Replacement cost . . . . .	75
Payment under profits policy on this basis . . . . .	50
Replacement cost collected under merchandise policy . . . . .	75
Total paid by both policies . . . . .	\$1 25

The clarifying definition of profits in Chicago Form No. 2 has settled the question so far as losses in Chicago are concerned.

The measure of loss may be gross profits under some circumstances, and either net profits or intermediate figures in others. It seems a logical conclusion that, if the quantity of merchandise destroyed is not great enough to warrant the owner in laying off salesmen, curtailing delivery service, or otherwise reducing the expense of doing business until the merchandise is replaced, and if there is no expense such as packing or wrapping incident to the sale of the merchandise, the profits loss will be the full difference between the replacement cost and the selling price. It also seems logical to conclude that, if the entire stock is destroyed or is surrendered to the insurers for salvaging, and if, pending replacement, the merchant suspends business operations, the profits loss will be diminished by the expense which is saved through suspending business. In any profits loss on unpacked merchandise that is ordinarily packed for delivery at the seller's expense, the cost of packing should be deducted from the selling price of packed goods. If commissions are paid to salespeople, the rate of commission should be deducted.

The Chicago Board Form No. 2A limits collections to loss of net profits.

The New York Form No. 2 presupposes an "ascertained loss of profits," but fails to declare a formula by which the loss shall be ascertained. It is probable that, if an insured under this form surrenders his salvage to the insurers, he is entitled to collect the net or intermediate profit, as the case may be. But if the insured retains the damaged articles to dispose of as best he can, the adjuster will find his ingenuity taxed to the utmost to work out an adjustment that will be either equitable or logical. It should be kept in mind that the insured may dispose of the merchandise by one of two methods. He may sell the entire damaged stock to a salvage buyer at a figure which may be the



same as, or more or less than, the salvage value agreed upon in the adjustment of the merchandise loss. He may, however, recondition the merchandise, and distribute it to his regular trade at a profit over the cost of handling. It would seem that if the first method were used the insured would lose his profit, and should, therefore, collect; but if the second method were used, and proved successful, there might be no profits loss whatsoever.

It seems proper to assume that, except under Chicago Form No. 2, gross profits should be the basis of coinsurance or average. If a single article is destroyed that would have ordinarily been sold without any expense in the way of commission, packing, or delivery, the insured would certainly be entitled to collect the full gross profit on the article. If his policy contained a 100 per cent co-insurance or average clause, he could not collect the full gross profit on the one article unless he had insurance equal to 100 per cent of the aggregate gross profit on every article in the store. The principle illustrated will be encountered in every profits loss. The dilemma in profits insurance is like that in use and occupancy insurance. If a partial loss is to be collected in full it may be necessary to carry an amount of insurance that could not be collected in case of total loss.

## CHAPTER VIII

### RENTS AND LEASEHOLD

**General.**—Rent or rental value insurance, and leasehold interest insurance, offer protection for loss of income derived from renting or sub-renting real estate, or for the loss of use of premises occupied. If rented or sub-rented premises are damaged by fire the owner or lessee will in many cases suffer a loss of income. An owner who occupies his premises, or a lessee who occupies premises that he does not sub-let will suffer a loss of use if fire renders them untenable.

**Rent and Rental Value.**—Rent insurance was devised to make good the loss of rent which a landlord might sustain if his building should be damaged or destroyed. Under the common law a tenant is not relieved from paying rent by such an occurrence. The common law, however, has been modified by statute in many states, the New York and the New Jersey statutes being typical:

*When Tenant May Surrender Premises.*—Where any building, which is leased or occupied, is destroyed or so injured by the elements, or any other cause as to be untenable, and unfit for occupancy, and no express agreement to the contrary has been made in writing, the lessee or occupant may, if the destruction or injury occurred without his fault or neglect, quit and surrender possession of the leasehold premises, and of the land so leased or occupied; and he is not liable to pay to the lessor or owner, rent for the time subsequent to the surrender.<sup>1</sup>

*Injuries to, or Destruction of, Buildings by Fire.*—Sec. 1. That whenever any building or buildings erected on leased premises shall be injured by fire without the fault of the lessee, the landlord shall repair the same as speedily as possible, as in default thereof, the rent shall cease until such time as such building or buildings shall be put in complete repair; and in case of the total destruction of such building or buildings by fire or otherwise, the rent shall be paid up to the time of such destruction, and then, and from thenceforth, the lease shall cease and come to an

<sup>1</sup> Real Property Law, New York, Section 227.

end, provided always, that this section shall not extend to or apply to cases where the parties have otherwise stipulated in their agreement of lease (Rev. 1877, p 576 )<sup>1</sup>

Agreements between landlord and tenant are usually in writing and are called *leases*. Leases now in use generally contain a *fire clause*, which fixes the rights and duties of both lessor and lessee in case of fire. The following fire clause, frequently used in New York City, is similar to the majority of fire clauses used elsewhere:

It is further agreed that in case the building, or buildings, erected on the premises shall be partially damaged by fire the same shall be repaired as speedily as possible at the expense of the lessor. In case the damage shall be so extensive as to render the demised's premises wholly untenable, the rent shall cease until such time as the building shall be put in complete repair; but in case of total destruction of the premises by fire, or otherwise during the time hereby demised, the rent shall be paid up to the time of such destruction and then and from thenceforth this lease shall cease and come to an end

Under the terms of the fire clause just quoted, the tenant is relieved from paying rent after the premises have been rendered untenable until such time as the fire damage has been repaired. The landlord will therefore suffer a loss of rent during this period.

*Rental value* insurance may be carried by a landlord who leases his property to a tenant, or by an owner who occupies his own building. Under a rental value policy a landlord is protected against possible loss of income due to the damage of unoccupied, as well as occupied, portions of his premises. As a prospect might appear at any time who would lease the vacant portion, a landlord might sustain a loss which would not have occurred except for the damage to his building. An owner-occupant might be ousted by fire, and compelled to rent temporary quarters until his own property could be made tenantable. If so, a rental value policy would contribute an amount toward the rent of the new quarters equal to the rental value of those damaged.

**Measure of Loss.**—The measure of loss under rent or rental value policies is determined by the period required under normal

<sup>1</sup> Compiled Statutes of New Jersey, Landlord and Tenant, Section 31.

conditions to repair the premises, and by the rate of rent paid or the rate of rental value.

**Adjustment Factors.**—The majority of rent or rental value forms incorporate the principle of coinsurance or average, based on the rent or rental value for some stipulated period, such as 12 months. In some forms the period stipulated is the number of months which would normally be required to rebuild the building in case of total loss. It is necessary, therefore, in the adjustment of most rent or rental value losses to establish three factors:

1. The length of time which normally would be required to repair or rebuild the premises.

2. The weekly, or monthly, amount of rent paid, or the weekly, or monthly, rental value of the portion, or portions of the premises damaged.

3. The total amount of the rent, or the total rental value of the entire premises for the length of time on which coinsurance or average is based.

The length of time normally required to restore the premises may be determined by three methods. It may be estimated with or without the help of a builder. It may be fixed by allowing the actual repairs to be made and accounting for the time. In case of disagreement it may be appraised.

If separately rented, or valued, sections of a structure are involved, the time necessary to restore each should be determined separately. The rate of rent to be paid can be determined from the lease. Some leases obligate the tenant to pay a certain amount monthly or quarterly, and, in addition, to pay certain fixed charges, such as taxes, or interest on a mortgage. Occasionally premises are occupied by short-term tenants who do not execute leases. The rate of rent in such cases must be determined from the statements of the landlord and the tenant, from the books of the landlord, or from the canceled checks of the tenant. The monthly or annual rental value of a building occupied by its owner is to be determined by comparing the building with others of like size and occupancy, which are occupied by rent-paying tenants in the same, or similar, neighborhoods. The opinions of active real estate rental agents may be sought as guides in such cases. The monthly rate of rent or

rental value, multiplied by the number of months specified, will fix the basis of coinsurance or average.

**Unsettled Questions.**—Does the contract of rent insurance contemplate that, to the time which would be required with the use of ordinary diligence to repair the premises, there should be added the time which would be required for the adjustment of the loss on the structure rented or occupied? This question has been responsible for much controversy. Until it has been settled either by adjudication, or by clarification of the form, the logical answer seems to be that a reasonable time for the adjustment of the property loss should be added to the time which would ordinarily be required to make the repairs. Under present conditions practically all property on which rent insurance is carried is also protected by insurance on the property itself. It is reasonable to suppose that the work of repairing a structure will not ordinarily be started until the estimated cost of the necessary repairs has been determined. Such determination ordinarily completes the adjustment of the loss under the policies on the building.

Is the measure of loss gross rent or rental value, or net figures? In many cases a substantial expense is necessary to earn the rent, or to make the premises valuable for occupancy, much of which would cease during a period of non-tenancy following a serious fire damage. The courts have divided on this question. The Georgia Court of Appeals has held that the insured may collect only the net amount remaining after deducting from the rent to be received the expense which would have been paid. The California Supreme Court, which passed on the same question, took the opposite position, and rendered judgment for the insured on the basis of gross rents.

If fire damage is not great enough to require the occupant to move out is there a rent or rental value loss? In many cases the occupant remains in possession, but suffers the inconvenience of having to move his personal property about so that it will not be damaged by rain entering through an injured roof or broken windows, and thereafter suffers the added inconvenience of having to adapt his occupancy to the presence of the mechanics who make the repairs. This question has only lately arisen, and has been answered in some sections by the preparation of forms

which specifically declare that liability arises upon injury to the premises.

**Appraisals.**—As a rule appraisals of rent and rental value losses have been satisfactory. It is usually the time element that makes appraisal necessary. When a rent loss is appraised because of disagreement as to the length of time required to make repairs, the problem for the appraisers is one of building construction. Good builders are competent to appraise such losses. If a rental value loss should require appraisal because of disagreement over the monthly rate of rent to be allowed, the adjuster might find it wise to nominate a real estate agent as the company's appraiser, rather than a builder.

**Final Papers.**—Final papers should include a statement of the monthly rate of rental applying to the building if it is rented to a single tenant, or a list of the separately rented premises and the monthly rate of rent for each. The adjuster should also enclose a statement showing the estimated time required for repairing each separately rented section. If outside help is required to determine rental value the report of the person employed should accompany the proof of loss.

**Leasehold Interest.**—Leasehold interest insurance may be written to protect the interest of a lessee arising under any of the following conditions.

1. If the rental value of the premises is greater than the rent paid by the lessee.
2. If the lessee is sub-letting the premises, or any part of them, at a profit.
3. If the lessee has paid a bonus for the lease.
4. If the lessee has installed at his own expense improvements which have become the property of the landlord.
5. If the lessee is in possession under a lease that does not provide for cancelation or abatement of rent in case of fire.

Under condition 4, the interest of the lessee may also be covered under a "Betterments and Improvements" form.<sup>1</sup>

**Effects of Fire on Interest of Lessee.**—The conditions of a lease determine what will be the effect of fire on the interest of

<sup>1</sup> Losses on betterments and improvements, and losses involving the liability of a lessee to repair or rebuild in case of fire are discussed on page 194.

the lessee. If the lease provides for cancelation, the lessee, in case of serious fire damage, may lose his entire interest. If fire occurs, but the damage is not sufficient to cancel the lease, the lessee may suffer a daily or monthly loss until the premises have been restored. The same kind of loss may also be suffered by a lessee if it is specifically provided that the lease shall continue, regardless of how seriously the premises are damaged.

**Forms.**—Leasehold insurance is written under two kinds of forms<sup>1</sup> They have been devised to cover:

1. The interest of a lessee under a lease which may be canceled by fire.
2. The interest of a lessee under a lease which may not be canceled by fire.

Forms of the first kind cover the full interest of the lessee in the lease. Those of the second insure against the loss which the lessee may expect to sustain while the premises are untenable as the result of fire. The second kind of form is generally written on a one-year basis.

Forms of the first kind provide that, in case the lease is canceled, a payment shall be made which is theoretically or actually equivalent to the value of the leasehold interest. This interest ordinarily diminishes in value from month to month as the lease approaches expiration. The forms, therefore, provide that the insurance in force shall be reduced monthly by a specific sum. These forms generally incorporate a provision for proportionate payment in case of loss that does not involve cancelation of the lease.

Forms of the second kind are similar in their intent to rent or rental value forms. A lessee in possession under a lease that does not provide for cancelation or abatement of rent in case of fire can be insured under a properly written rental value form.

**Cancelation of Lease.**—A lease may be subject to cancelation in case of fire because of a specific condition in the lease itself, known as a fire clause. In some states, a lease which does not specifically provide that it shall continue in case of fire may be canceled under the state law.<sup>2</sup> A fire clause commonly used in

<sup>1</sup> See p 390

<sup>2</sup> The statutes of New York and New Jersey fixing the rights of the lessee are quoted on p. 160

New York,<sup>1</sup> provides for a termination of the lease in case the building is substantially destroyed, but there are a number of other fire clauses quite different in their provisions. Some provide for termination in case the building cannot be repaired within a certain period of time following damage by fire; others, that the lease shall terminate if the landlord decides to rebuild.

**Measure of Loss When Lease Is Canceled.**—If a lease is canceled, the lessee suffers a loss measured by the value of his interest. This value will be determined by:

1. The unexpired term of the lease.
2. The rent to be paid by the lessee.
3. The bonus, if any, paid for the lease and/or the amount if any, spent for improvements.
4. The returns expected in use of the premises, or sub-rentals to be collected.

*Excess of Rental Value over Rent Paid.*—If the rental value of the premises is greater than the rent paid by the lessee, the value of the leasehold interest is ordinarily estimated as being the difference between rental value and the rent to be paid for the unexpired terms of the lease, less proper reduction for present worth.

*Example*—A lessee in possession of premises under a 20-year lease pays a monthly rental of \$1,000. At the beginning of the eleventh year of the lease the growth of the neighborhood has reached a stage where leases of similar premises are being made on the basis of \$2,000 a month. At this time the lease is canceled by fire. In the absence of unusual conditions, the value of the leasehold on a four per cent basis, interest compounded semi-annually, will be as follows:

Monthly rental value.....	\$ 2,000
Monthly rent....	1,000
Excess. . . . .	\$ 1,000
Remaining term of lease, 120 months at \$1000 . . . .	\$120,000
Present worth at 4 per cent of 120 monthly payments, 83 14 per cent of \$120,000 . . . . .	\$ 99,768

*Sub-letting.*—If the lessee is sub-letting the premises, or any part of them at a profit, the value of the leasehold interest is ordinarily estimated as the difference between the total rent fixed by sub-leases in force at the time of the fire and the total

<sup>1</sup> See p 161



rent payable by the lessee for the premises sub-let, less maintenance and operating charges for the unexpired term of the lease.

### Example

A lessee in possession of premises under a lease that has five years to run sub-lets the premises at a total rent of \$15,000 a year payable monthly. He pays the owner a net rent of \$7,500 a year in monthly installments, and also pays taxes on the property of \$1,500 a year, and pays for fuel, janitor, and ordinary repairs \$2,500 a year. The lease is canceled by fire. The value of the leasehold interest, in the absence of unusual conditions, will be determined as follows:

Total annual rent fixed by sub-leases		\$15,000
Annual rent payable.....	\$7,500	
Taxes, yearly	1,500	
Fuel, and janitor, yearly	2,500	11,500
Annual profit	\$ 3,500	
Remaining term of lease 5 years at	\$3,500	\$17,500
Present worth at 4 per cent of 60 monthly payments		
90 8 per cent		
90 8 per cent of \$17,500		\$15,890

*Bonus Paid for Lease.*—If the lessee has paid a bonus for the lease the value of the leasehold interest is ordinarily estimated as being the portion of the bonus that would be apportioned to the unexpired term of the lease.

### Example

A purchaser pays \$10,000 for a lease which has 10 years to run, and becomes the lessee of the premises. At the end of 2 years the lease is canceled by fire. The value of the leasehold interest, in the absence of unusual conditions, will be estimated as follows:

Full term of lessee's interest 10 years.

Bonus paid \$10,000.

Amount of bonus apportioned to each year

of lessee's interest \$10,000 ÷ 10 . . . . . \$1,000

Unexpired term of lease . . . . . 8 years.

8 years at \$1,000 . . . . . \$8,000

In this case there is no deduction, as no future savings or profits are being considered.

*Improvements*—If the lessee has installed at his own expense improvements which have become the property of the landlord,

the value of the leasehold interest is ordinarily estimated as being the amount of the expense that would be apportioned to the unexpired term of the lease

This calculation is based on the same principle as that involved in the interest of a lessee acquired by payment of a bonus.

The value of a leasehold interest may arise through a combination of conditions. For example, a lessee may install improvements and also experience a decided rise in the rental value of his premises. Under such conditions, the value of his interest will be determined by both the amount of the expenditure and the excess of rental value. In other cases, a lessee may pay a bonus for possession, may then make improvements, and afterwards sublet.

**Measure of Loss When Lease Continues.**—If leased premises are damaged by fire so as to prevent the lessee from using them, or from collecting sub-rentals, but the lease remains in force, the loss suffered by the lessee will be determined by:

1. The length of time the premises are out of use.
2. The terms of the lease providing for abatement or continuance of rent.
3. The nature of the lessee's interest.
4. The terms of any sub-leases providing for abatement or continuance of rent.

**Excess of Rental Value over Rent Paid.**—If the rental value is greater than the rent paid, and the rent abates in case of fire, the lessee's loss will be the difference between the two figures for the period of time necessary to restore the premises. If the rent does not abate, it will be the full rental value for the period.

#### Example

If the rent abates,	
Monthly rental value . . . . .	\$500
Monthly rent paid . . . . .	350
Difference . . . . .	\$150
Time necessary to restore property 5 months;	
5 months at \$150 . . . . .	\$750
If the rent does not abate,	
Monthly rental value . . . . .	\$500
Time necessary to restore property 5 months;	
5 months at \$500 . . . . .	\$2,500

*Sub-letting.*—If the lessee is sub-letting at a profit, and his rent, expense and sub-rentals abate in case of fire, his loss will then be the difference between the sum of his rent and expenses, and the aggregate of the sub-rentals for the period of time necessary to restore the premises.

**Example**

Aggregate monthly sub-rentals	.. . . .	\$750
Monthly rent	.. . . .	\$500
Monthly expense	.. . . .	100
Difference	.. . . .	\$150
Time necessary to restore property 5 months;		
5 months at \$150	.....	\$750

*Sub-letting with No Abatement from Lessor.*—If the lessee is sub-letting at a profit and his rent and expense do not abate, but his sub-rentals do, his loss is the full amount of his sub-rentals. An example illustrating this self-evident proposition is unnecessary.

*Bonus Paid for Lease.*—If the lessee has paid a bonus or improved the property at his own expense, his loss will be such proportion of the bonus, or cost of improvements, as will be apportioned to the time necessary to restore the property.

**Example**

Bonus paid for lease	.. . . .	\$10,000
Unexpired term of lease at time bonus was paid.	.. . . .	10 years
Proportion of bonus apportioned to each month,		
1/120 or.. . . .	.....	83 33
Time necessary to restore property 5 months;		
5 months at \$83.33	.....	\$416 66

If apportioning a bonus or the cost of improvements, the apportionment should be made over the number of months remaining in the term of the lease at the time the bonus was paid, or the improvements made.

The loss suffered by a lessee whose lease continues may involve, at the same time, increased rental value, bonus, and improvements, or bonus, improvements, and sub-rentals. When more than one element of loss is to be considered, the elements should be determined separately.

*Adjustment Factors*—The adjustment of a leasehold loss may call for the determination of three or more of the following factors:

1. *Rent Paid by Lessee*.—This is usually stipulated in the lease, which should be examined. If claim is made for an amount different from that stipulated, the adjuster should ask for supporting evidence, such as canceled checks, receipts, or entries in books of account.

2. *Term of Lease*.—This is to be taken from the lease itself. If the lease contains an option of renewal, the language of the option should be carefully studied.

3. *Provision in Case of Fire*.—This will generally appear as a clause in the lease, often headed, "Fire Clause." If there is no provision in the lease, the state law should be looked up. The fire clause is generally copied in the policy form with a warranty that it shall not be changed without notice to the company. The form should be compared with the lease.

4. *Bonus Paid*.—The amount and date of payment are both necessary. Written evidence, such as canceled checks, contracts, and book entries, should be asked for.

5. *Improvements*.—The amount expended and the date of installation should be established. Bills, plans, specifications, and canceled checks are pertinent evidence. If a purchaser of a lease pays for improvements made by the lessee who sells to him, the payment should be treated as a bonus.

6. *Cost of Operation; Taxes or Charges; Expense of Maintenance*.—These should be taken from books of account or substantiated by canceled checks.

7. *Sub-rentals*.—Sub-leases should be examined. If sub-tenants are in possession under oral rent agreements, their statement should be taken for comparison with the items of the claim.

8. *Rental Value*.—This is a matter of estimate. Comparisons of floor areas, space, and location should be made with other properties actually rented. The rental value claimed should not exceed current rentals paid for similar property in equally desirable neighborhoods. In case of doubt, a competent renting agent should be consulted. Rental value may be appraised in case of dispute.

9. *Time Necessary to Restore the Property.*—This is to be determined by agreement, using the help of a builder, if necessary, or by appraisal.<sup>1</sup>

**Practical Considerations.**—The theoretical value of a lessee's interest under a long-term lease should be checked against estimates obtained from real estate operators who are familiar with rental conditions. The theoretical value is based on an assumption that conditions prevailing at the time the value is calculated will persist throughout the term of the lease. The longer the lease, the more uncertain will be the actual value as contrasted with the theoretical. The best test of value is the offer a competent tenant or operator will make for a similar lease.

The value of a leasehold extending over 20 years may be tremendously enhanced by a change in traffic routes, or by the coming into the neighborhood of owners, tenants, or types of business that tend to make it more desirable. On the other hand, a decline in the importance of the neighborhood, or the increasing obsolescence of the particular building under lease may in a few years destroy, or at least depreciate, the value of the lessee's interest.

**Final Papers.**—Final papers should include originals or copies of any estimates of the damage to the property, or the time necessary to restore, together with reference to the evidence from which the other factors of loss were determined. If rental value, or the probable price for which the lease could have been sold, were estimated by an expert, the estimate should be made a part of the papers.

<sup>1</sup> A discussion of methods appears on p 162

## CHAPTER IX

### USE AND OCCUPANCY

**General.**—Use and occupancy insurance offers indemnity to mercantile, manufacturing, or other income producing establishments for loss of income due to interruption of business caused by fire. It is a form of insurance which in many respects is similar to rent or rental value insurance. When the normal income of a business is reduced or ended by damage or destruction of the premises that produced it, use and occupancy insurance will provide funds to keep the organization together, to meet obligations to stockholders and others, and to finance emergency measures to continue business or hasten resumption of operation. The purpose of use and occupancy insurance will be understood if the contract is considered in connection with (1) serious, (2) moderate, and (3) minor interruptions of business due to fire.

Assume, for example, the complete destruction of a manufacturing plant which has been earning a substantial profit. There is an immediate ending of production; sales cannot be made; income ceases. Until the plant is rebuilt, or until the manufacturer can arrange to purchase or lease a new one, there will be no income. Unless business can be commenced at once in other quarters the organization will commence to disintegrate as the men are forced to find other employment to support themselves. Stockholders will complain of the prospect of lost dividends, bondholders will expect payment of interest, and tax officers will expect tax payments on assessments made prior to the fire, and on the income or profits of the tax period before it. There may also be demands under contracts which cover definite periods, and which cannot be canceled in case of fire. Skilled employees may hold yearly contracts, a lawyer may be retained on a yearly basis, advertising may have been contracted for in advance, and royalty payments may have to continue until a

fixed future date. In some cases power contracts are a continuing drain. While many expenses can be ended promptly (common labor, for example), others must continue for a time. Salesmen away from headquarters must travel home, and some employees must be retained to bring accounts up-to-date, and to look after collections.

If, however, instead of complete destruction, there has been only a damage to the plant, it may be possible for the manufacturer to restore his premises in a comparatively short period of time, and suffer nothing more than a temporary loss of production, and a diminished profit for the period. If the manufacturer is a resourceful character, he may even make up his production by renting temporary quarters or extra machines, or by running overtime with an extra force until his plant is put in order. Under such circumstances, his loss will be no greater than the extra expense incurred by the emergency measures. A trivial damage to the plant may cost the manufacturer a day's payroll devoted to rearranging work, and a loss of production that will not be great enough to reduce sales. In cases similar to any of the foregoing examples, the manufacturer would be indemnified by use and occupancy insurance for the items of loss mentioned.

**Effects of Fire.**—Fire may destroy a manufacturing plant and cause a total suspension of business, which cannot be resumed until after the plant is rebuilt or new quarters are secured. Some manufacturing plants are designed so that the entire production passes through a single building or process, the disabling of which will cause a total suspension of operations. Damage to a manufacturing plant may cause only a partial suspension of operations. A part of the equipment may be disabled, leaving the rest in operation. The undamaged part may be able to produce a certain quantity of finished stock. A non-manufacturing risk may be destroyed or be damaged so that no business can be carried on. If it is a mercantile establishment it may be possible to engage a new building and resume sales as soon as new stock can be secured. Until then, or until arrangements are made to sell from other stocks, or until the damaged building is rebuilt or repaired, there will be a total suspension of business. A non-manufacturing risk may be

partly damaged, yet be able to continue with part of its business pending repair or replacement.

**Forms.**—While there are many different kinds of use and occupancy forms designed to fit the needs of different risks, any of the standard forms will fit into one of the following classes:

1. *For Business Enterprises That Normally Show Constant Earnings during the Year.*—Forms that provide a uniform daily, weekly, or monthly basis of payment.

2. *For Business Enterprises That Show Fluctuating Earnings, Daily, Weekly, or Monthly.*—Forms that provide a fluctuating daily, weekly, or monthly basis of payment.

3. *For Business Enterprises of Either Kind.*—Forms that do not limit the payment to a daily, weekly, or monthly basis, but incorporate the coinsurance or average clause, and thus provide for payment of loss in full, whether uniform or fluctuating, provided the required amount of insurance is carried.

The forms in each class are ordinarily divided into *manufacturing forms* and *non-manufacturing forms*. The manufacturing forms exclude use and occupancy loss due to damage or destruction of finished stock, the non-manufacturing forms include such loss. The titles of typical forms follow:<sup>1</sup>

1. *Per diem mercantile.*
2. *Per diem manufacturing.*
3. *Weekly or monthly mercantile.*
4. *Weekly or monthly manufacturing.*
5. *Seasonal mercantile.*
6. *Seasonal manufacturing.*
7. *Mining.*
8. *Coinsurance mercantile.*
9. *Coinsurance manufacturing.*

**The Use and Occupancy Contract.**—All standard use and occupancy forms limit payment to actual loss sustained, and provide how the amount shall be determined. The insured income is stated as being that part of income which consists of net profit and fixed charges, together with the part that may be used to pay expenses incurred for the purpose of reducing loss. The period during which the insured may collect for the interruption of his income is stated as being the length of time required,

<sup>1</sup>Specimen forms are given on pp 412 to 422.



with the exercise of due diligence and dispatch, to rebuild, repair, or replace such part of the property as may be damaged or destroyed. In order, therefore, to support a valid claim under a use and occupancy policy, the insured must be able to show that the property was producing income, and that, because of damage to or destruction of the property itself, the income has been interrupted.

**Income Insured.**—The income insured is that part of gross income which represents:

1. Net profit.

Net profit is the difference between gross profit and all expenses. It may be thought of as that part of income left after all expenses have been paid, and all accruals have been provided for. If income is diminished, the first loss sustained is necessarily in the item of profit.

2. Fixed charges that must necessarily continue during a total or partial suspension of business, to the extent that such fixed charges and expenses would have been earned had no fire occurred.

Fixed charges are expenses which are not immediately terminated in case of fire. They vary in different business enterprises, but ordinarily consist of the following items:

Salaries of essential executives, salesmen, skilled employees, technical experts, watchmen, and others.

Taxes.

Royalties.

Donations pledged over a period of time.

Advertising under contract.

Credit information.

Insurance premiums.

Interest on business indebtedness.

Retainers.

Any other term contracts or necessary maintenance expense.

3. Expenses incurred for the purpose of reducing loss of income.

Overtime labor, rental of extra machinery or quarters, express or truck shipments of material that would ordinarily be transported by freight are examples.

That part of income that goes toward the purchase of merchandise or material is not insured, as no purchases will be made

after a business is disabled by fire, and, theoretically at least, any material that has been bought in advance and must be paid for on arrival can either be held until the business has been re-established or can be sold. The remainder of income, ordinarily used to pay for the expense of common labor, is generally left uninsured, because ordinarily the expense of common labor can be terminated immediately after a fire, and also because it would be necessary to carry insurance in sufficient amount to include the annual payroll as well as the other items of income already discussed. Some modifications of the requirement for covering the annual payroll is provided for in the coinsurance form lately adopted in New York, which provides for insurance of not more than one-fourth of the annual charges and expenses for a period which may be as short as 90 days.

**Period of Suspension.**—Loss of income may be collected during the time required, with exercise of due diligence and dispatch, to rebuild, repair, or replace the property. The property to be rebuilt or repaired is generally:

1. Buildings.
2. Equipment.
3. Machinery.

The property to be replaced in *manufacturing risks* is:

1. Raw stock.
2. Stock in process of manufacture.

The property to be replaced in *non-manufacturing risks* is merchandise.

In rebuilding or repairing buildings, equipment, or machinery, the period of loss continues to the date when the property becomes serviceable and business can be resumed. But in manufacturing risks the destruction or damage of raw stock will produce no greater loss of income than the amount that would have been produced by working up the raw stock, and for this reason the period of suspension due to the destruction of raw stock is limited to the time that the raw stock on hand would have made operations possible. In many cases the raw stock can be replaced in less time. Replacing stock in process of manufacture requires that the same amount of stock shall be brought to the same stage of completion. Usually the period allowed for this is

limited by the form to 30 days, though this period may be extended by special endorsement.

**Loss Not Covered.**—All use and occupancy forms specify that the property itself must be damaged or destroyed to impose liability for the loss sustained. It should therefore be kept in mind that a loss caused by the interruption of power, due to fire in a nearby location, but not involving the insured property, is not covered. A loss caused by the blocking of streets by the fire department, or by falling debris, is not covered. The use and occupancy contract also excludes consequential or remote loss. It specifically excludes loss due to cancelation of any lease or license, although such a loss may be serious if a business is operating in rented premises, and possession is lost because the landlord elects to terminate the lease following fire. It might not be possible to locate suitable quarters without considerable loss of time, and afterwards there would still be a period of idleness while machinery was being installed or stock replaced. If by order of municipal authorities a building should be razed, which would have been susceptible of speedy repair, the occupant's resulting loss of income cannot be collected under use and occupancy insurance. If repair is delayed because of regulations governing repairs or reconstruction, loss of income can only be recovered for such a period as would ordinarily have been necessary to repair the property had no such regulation existed. Mining forms exclude loss due to destruction of any building or machinery which does not contribute to the production of the product mined, unless the building or the machinery is specifically insured. The income for storehouses, dwellings, commissaries, and similar structures is therefore not to be considered unless the structures are named in the form. Mining forms also exclude loss due to fire originating in the mine unless the fire communicates to the superstructure above ground, and then cover only for the time required to repair or replace the superstructure. The manufacturing forms exclude loss due to the destruction of finished stock.

**Resumption of Operations.**—The prosperous merchant or manufacturer whose business is interrupted by fire will ordinarily take immediate steps to resume operations, as by so doing he will reduce his loss of income in proportion to the time saved in get-

ting started. The use and occupancy contract, therefore, requires the insured to resume operations promptly. This requirement is similar to the condition in the standard policy that the insured protect the property from further damage.

**Adjustment Procedure.**—Adjustment procedure usually takes the following order:

1. Assisting the insured to resume business.
2. Determining the amount of the income received prior to the loss.
3. Determining the diminution of income resulting from the loss.
4. Determining the period of suspension.
5. Fixing the amount recoverable under the policies.

**Resuming Business.**—Efforts to assist the insured resume business must be adapted to the nature of the loss. If the property is destroyed, and there is a possibility that the business can be resumed in other quarters, every effort should be directed toward helping the insured secure a new place of business, and plan for an early resumption of operations. If the property is only damaged, there should be an examination of surplus or standby (or emergency) equipment, and a consideration of what temporary arrangements can be made to reduce the period of suspension, or to increase the production or sales. Resumption of business is usually a step-by-step process. If the damage has been severe there will usually be a period of total suspension followed by a period of day-to-day increase of business. If the damage has been slight, there may be a full resumption as soon as necessary repairs have been made. The adjuster should not hesitate to urge temporary installations or other similar work, for such measures generally pay for themselves in the time saved. He should endeavor to interest the insured in getting started, and should offer him the benefit of the experience gained in other similar losses. Essential equipment should be ordered at once, with instructions to expedite shipment. An intelligent use of overtime work should be made. If the adjuster can get the full cooperation of the insured, ingenuity and common sense will often turn the adjustment of a serious-looking damage into a comparatively simple piece of work.

While the use and occupancy loss and the physical loss are covered by two different contracts which must stand by them-

selves, the adjuster handling the use and occupancy loss must have a certain amount of help from the adjuster handling the physical loss, unless the same adjuster handles both. Such help is particularly necessary at the start of the use and occupancy adjustment when there is under consideration the question whether immediate permanent repairs or temporary repairs will bring about an earlier resumption of business or a smaller loss of sales. If the insured fails to move promptly it will usually develop that the profits in his business are not what they have appeared to be. In fact, the insured's response or lack of response to the adjuster's efforts to get the business started will often indicate what will be found when both the physical loss and the use and occupancy have been thoroughly examined. If the insured is making a real profit on his operation, and faces the loss of bona-fide contracts, he will ordinarily be getting ready to start before the adjuster arrives. If, however, the business has been operating at a loss, the insured will generally adopt dilatory tactics.

**Income Received.**—The determination of income received is made by preparing a trading account covering the past operation of the business.<sup>1</sup> Generally this account is prepared at the end of each fiscal period, and the accounts for several periods will be accessible to the adjuster. If the last account is based on a closing inventory taken a number of months before the loss, and the physical loss is great enough to require a complete inventory of stock on hand, a special trading account covering the period immediately before the loss can be made by using the inventory taken for the purpose of adjusting the physical loss. The books should be carefully examined, and their showing compared with any work sheets the insured may have used in determining the amount of use and occupancy insurance he is carrying. Income tax returns are also valuable data for purposes of comparison. Monthly or weekly comparative tables for two or three years prior to the fire are of great help.

If the trading account shows that the business has been enjoying a profitable income, this income should be analyzed to determine what part of it represents net profit, what part goes toward the payment of fixed charges and expenses, and what

<sup>1</sup> See p. 145

part goes into ordinary expenses that can be terminated after the fire. The total of the items representing net profit and fixed charges will be the past income that has been insured. In preparing a trading statement, the adjuster should observe all of the precautions set forth in the preceding sections which discuss the subjects of inventories, purchases, sales, and gross profit,<sup>1</sup> remembering that any error or falsification in the books that inflates the showing of stock on hand will also inflate the showing of gross profit, thus making it appear that the income of the business was greater than was actually being received.

**Diminution of Income Due to Fire.**—After establishing the amount of insured income which the business received before the fire, the next step is to forecast, or to determine, how much diminution of income the insured will suffer as a result of the fire. The choice of method, whether to forecast the amount of loss and make an adjustment before full operations are resumed, or to await resumption and check results, will largely depend on the nature of the physical damage and the attitude of the insured. The more serious use and occupancy losses are generally adjusted on the basis of a forecast, or estimate, in the same manner that the physical loss is adjusted. Any use and occupancy loss is to be adjusted by giving due consideration to the experience of the business before the fire, and the probable experience thereafter.

As the experience before the fire is considered when the trading statement is made up, and the showing of gross profit apportioned to net profit, fixed charges, and expense that can be discontinued, the experience after the fire is considered when an examination is made of orders in hand, contracts for future production or delivery, cancelations, and other data shown by the files of the insured. All such data should be supplemented by market statistics obtained outside, and the speculative element should be reduced as much as possible. Agreement should then be reached with the insured as to the basis of the adjustment, whether the rate of income shall be accepted as the same as that prevailing before the loss, whether it shall be higher to allow for a probable increase in income, or lower because of a probable decrease. When the basis has been agreed on, an itemized statement should be built up.

<sup>1</sup> See pp. 121 to 145.

**Statement of Items.**—The items of earned income appearing in the ordinary statement of a use and occupancy loss will generally be:

*Net Profit.*—While net profit is defined as the profit remaining after deducting all expenses from the gross profit shown by the trading account, there is considerable variation in the methods of individual bookkeepers who prepare profit-and-loss accounts. In many sets of books the net profit is reduced to a negligible figure in order to reduce income tax payments. The reduction is accomplished by increasing certain items, depreciation being a typical one, which are payable out of income. Amounts drawn out by partners, or salaries paid to officers, when the officers own the entire stock of the corporation, may practically extinguish the net-profit item, although the business is really prospering. Dividends on capital stock, or interest on a bonded debt are net-profit items, but are often entered as charges with a resulting diminution of net profit. As a practical matter, these variations in bookkeeping methods have no effect on the result of the use and occupancy statement, as any item of insured income may be shifted from fixed charges to net profit, or *vice versa*, without changing the total.

*Fixed Charges.*—Standard use and occupancy forms refer to these items as:

*Fixed charges and expenses that must necessarily continue during a total or partial suspension of business to the extent that such charges and expenses would have been earned had no fire occurred.*

In considering any item which the insured claims should be allowed under this provision, the adjuster should apply two tests. Would it have been earned had no loss occurred, and must it be paid after the loss? If so, it is covered.

If the business has been making a real profit it has necessarily been earning its fixed charges, for there can be no profit unless income exceeds expense. If the facts in hand indicate that the probable experience of the business after the fire would have been no less successful than the experience before, the conclusion follows that it would have continued to earn its fixed charges. Charges incurred under contracts or the requirements of law will continue according to the terms of the contracts or the

provision of the law under which they are incurred. Thus, an officer or employee under yearly contract will have to be paid his salary until the expiration of the contract, while taxes will have to be met until relief is given by operation of law. A consideration of the following charges will illustrate the principle.

*Advertising under contract* may require stipulated payments even though the business has been completely suspended, but on the other hand may be subject to cancellation in case of fire. If payments must continue they are insured, otherwise not.

*Credit information* from Bradstreet's or Dun's is secured on the basis of a minimum payment, contemplating a certain number of reports, additional reports to be paid for at a stated rate. The minimum payment is a fixed charge, as it covers a specific period.

*Donations* made regularly, and charged against the business are insured.

*Insurance premiums* regularly paid on all forms of insurance, are insured. In some territories use and occupancy premiums are excepted.

*Interest on bills payable* is an insured item. Interest paid on bonds, or dividends on stock are part of net profits.

*Legal retainers* covering periods of time are insured.

*Prepaid expense* such as specific advertising preliminary to a sales or production campaign is insured when properly apportioned to the sales or production reasonably expected.

*Royalties* and *rent* are insured if they must continue to be paid after a fire.

*Salaries* paid under contract are insured. If the business is to be resumed the organization must be maintained. Under such circumstances the salaries of important employees, even when not under contract are an important item of continuing expense and are insured.

*Taxes* which are expenses, such as city, county, state, and district taxes, are insured. Profit taxes, payable out of profit are also insured, but it is better to let the profit include them and make no separate item for profit taxes.

When the total of the foregoing items has been made up it can be reduced to a daily, weekly, or monthly basis, which



will then represent the limit of actual loss for the unit of time.

*Expense Necessarily Incurred for the Purpose of Reducing Loss.*—In cases of partial suspensions, when by extra expense the insured undertakes to hasten resumption and thereby reduce his loss, this extra expense should appear as an independent figure, for its inclusion in the calculation of the limit of loss would produce a distorted figure. Such expense is collectible to the extent that it does not exceed the amount of loss that would have been sustained if the expense had not been incurred. The principle is the same as that applying to repair charges, which are collectible unless they exceed the value of the property repaired. The usual expenses of this nature are overtime labor for quick repairs, express or truck shipments of essential equipment which ordinarily would travel as freight, temporary use of rented motors, and arrangements with nearby plants temporarily to take over specific work.

Care must be taken to eliminate expense that does not produce a lessening of the use and occupancy loss. In a recent case there was a total suspension of one department of a plant which produced less than 10 per cent of the entire earnings. This department was unduly favored by the owners, who sought to hasten its resumption by disarranging several other departments of the plant, with a resulting loss of 25 per cent of earnings.

*Determining the Period of Suspension.*—In most use and occupancy losses there will be a period of total suspension until temporary arrangements have been made, following which there will be successive periods of partial suspension until the premises are fully restored. In small losses, suspension has usually ended before the arrival of the adjuster, unless some piece of essential equipment has suffered an injury that cannot be quickly repaired.

The policy assumes liability for a fixed period (usually one year), commencing with the date of the fire and not limited by the expiration of the policy, which shall not exceed the length of time required, with the exercise of due diligence and dispatch to rebuild, repair, or replace such part of the property as may be damaged or destroyed. If full production or income can be

restored in less time than is necessary to make complete restoration, the lesser period is the basis of adjustment. Ordinarily, a use and occupancy adjustment is based on the length of time necessary to restore the property, and this length of time is usually determined by agreement. In the case of a mercantile establishment, the time required to replace the stock is included.

In serious losses, the repair or reconstruction of buildings is usually the operation that consumes the most time, as equipment and raw stock can generally be secured before the building is ready. The type of the building involved will have much to do with the swiftness or slowness of the repairs or reconstruction. Weather conditions must be considered, as rains, storms, and extreme cold or heat, retard building operations. In a recent loss in northern New York a building was so filled with ice, and the weather remained so cold, that repairs could not be started for a period of two months. If a use and occupancy loss occurs as the result of a conflagration, the sudden demand for men and materials in the ravaged area may make it impossible to begin rebuilding operations until there has been an influx of mechanics from other cities. If the period is to be estimated, as is the rule in serious losses, the adjuster must give due consideration to all contingencies, but he must bear in mind that the owner of a profitable business will be able to circumvent many of them. While the period may be estimated by the adjuster, he will do well to fortify himself against criticism by having his opinions checked by a competent builder or engineer, and the result put in the form of a report or bid to make restoration. Although the use and occupancy contract makes no allowance for time lost in adjusting the property loss itself, the words "due diligence" would probably support the conclusion that the time allowed to effect restoration includes the time necessary to effect a proper adjustment of the property loss under normal conditions.

Textile, chemical, or metal-working machinery may be badly damaged by water and exposure to weather conditions, and require a considerable length of time for repair. Heavy machinery is generally less troublesome. In one celebrated case, however, there was a serious loss caused by the injury of a single

machine which had produced a third of the plant's output. When the machine had to be replaced it was found that the manufacturers were so inadequately equipped that they could deliver only two machines each year. Foreign machinery may have to be imported with great delay, while patented machinery must be replaced through the holder of the patent. Dies, patterns, and special machines are troublesome, and may cause serious delay. In view of contingencies that may affect machinery items, the adjuster should always survey the equipment promptly and carefully, determine which are the essential pieces, and get the insured to order them at once, or, if the loss warrants, send out buyers, followed by men who will expedite and trace the shipments.

One very able engineer has in several cases produced for the insured a new design and layout which not only brought about a speedier resumption of operations, but resulted in greater production at reduced cost. Such a possibility should always be considered.

Replacement of stock does not ordinarily play a serious part in a manufacturing use and occupancy loss, unless it is raw stock of a seasonal nature destroyed early in the run. In a department store, however, the time required to assemble the varied lines of merchandise, to tag and mark them, and to place them on the shelves and in the cases, may run into weeks. If stock is covered under the use and occupancy insurance, and is also insured against direct loss, complications may arise if the insurers of the stock see fit to take it over as salvage. If the salvage is such that, had the insured kept it he could have sold it at a profit, the time required to replace it should not be considered in the use and occupancy adjustment, as the loss for such time is consequential to the salvage operation and is not directly due to fire. In some losses, the time element is determined by having restoration made under the check of the adjuster, who records the time required. When there is integrity and ability on both sides this method eliminates all uncertainties.

**Appraisals.**—In the case of use and occupancy losses disagreement may arise over the length of time necessary to restore the premises, or over the amount of loss sustained during the period of suspension. If an irreconcilable difference arises over either

factor, the difference can, of course, be appraised. If the factor in dispute is the length of time, the appraiser selected should be competent to estimate repairs or restorations, and to estimate the usual time necessary to do such work. If the difference of opinion has for its basis the probable amount of loss sustained, an accountant or businessman may be better qualified to appraise. Appraisals must be used with caution unless entered into under amicable conditions. Mishandled or misapplied appraisals have resulted disastrously. Success in appraisals depends largely on local conditions, and the adjuster's knowledge of when to enter into an appraisal and where to find a competent appraiser.

**Fixing Amount Recoverable.**—With the amount of income that will be lost determined, and the time of suspension fixed, the amount recoverable under the policy can be worked out. The daily rate of income, multiplied by the number of days of total suspension, plus the fractional part of the daily rate, multiplied by the number of days of partial suspension will fix the amount of loss. If sufficient insurance is carried to cover the income that would be lost in case of total suspension, the full amount of the loss is recoverable. If the insurance is insufficient, the insured is entitled only to such proportion of his daily limit as the daily loss incurred bears to the daily loss that would have been incurred had the suspension been complete. Forms with weekly or monthly limits base their payment on the same principle, so that by changing the calculation to a weekly or monthly basis, and comparing the weekly or monthly loss that would have been incurred in case of total loss, the same principle is applied.

Under coinsurance forms it is not necessary to reduce the loss to a daily or monthly basis, though some unit of time will be of help in estimating the total loss incurred. Such proportion of the total loss is payable, in event of under-insurance, as the amount insured bears to the forecast of earnings during the period on which coinsurance is based, usually 1 year. In the recently promulgated form used in New York, the period of coinsurance for net profit and fixed charges is 1 year, while the period for other expense may be as short as 90 days. A few valued forms survive. When these are encountered it is well to submit to the

companies for approval any suggested adjustment that seems to be demanded by the form, but is apparently an overpayment of the actual loss sustained.

**Proper Time to Adjust Use and Occupancy Loss.**—As a rule, the use and occupancy loss should be adjusted at the time the physical loss is adjusted. Much of the data accumulated in adjusting the physical loss will help in the use and occupancy adjustment, and the companies are usually anxious to compare the results of the two losses. It is well to remember, however, that in some cases the better way to handle the time element of the use and occupancy loss will be to encourage the insured to restore the property and abide the result, thereby reducing the speculative element in the loss to a consideration of the orders or contracts that may have been lost because they could not be handled promptly.

Use and occupancy adjustments are based on so many contingencies that it is easy for the adjuster to become a target for criticism by both the insured and the companies. If the loss is serious, and is settled too soon, there is apt to be criticism by the companies, and if held open too long the companies become anxious. Disposition of a serious loss on the basis of estimates is always dangerous, but is often the only way out, particularly if the insured contemplates altering the construction of his plant, or enlarging it. On the other hand, if the adjustment is held up awaiting reconstruction, there may be a surreptitious use of other premises, or of goods obtained through trade channels without the adjuster's knowledge, which may be successfully concealed until after the adjustment, and later brought to the companies' attention to the great embarrassment of the adjuster.

As an intelligent insured will seldom wish to adjust his loss until he has formulated a plan on which he intends to rehabilitate his business, it is best for the adjuster to learn the insured's intentions before bringing the loss to a conclusion.

**Final Papers.**—Final papers should include any estimates of builders, engineers, or other experts covering the length of time necessary to restore the property, and also a comprehensive statement covering the reasons for any allowance of an increased rate of income over that shown by the past experience of the business.

## USE AND OCCUPANCY VALUE

X Y. Z Manufacturing Company

February 22, 1928 to February 22, 1929

	Estimated Income and Ex- pense Had No Fire Occurred	Continuing Expenses
Sales, net . . . . .	\$1,872,191 29	
Cost of goods sold		
Raw materials . . .	\$921,482 79	
Direct labor. . . . .	82,125 68	
Manufacturing expenses:		
Superintendent's salary	12,000 00	\$ 12,000 00
Indirect labor. . . . .	11,100 00	
Coal and fuel oil . . .	61,281 29	
Depreciation, buildings	11,129 17	2,782 29
Depreciation, machinery	26,421 82	6,605 45
Maintenance, buildings	4,178 22	
Maintenance, machinery	11,927 82	
Light and power. . . . .	8,421 02	1,200 00
Insurance . . . . .	17,019 67	4,125 86
Taxes, real estate and personal property	13,109 18	13,109 18
Supplies . . . . .	4,781 62	
	<u>1,184,978 28</u>	
Gross profit. . . . .	687,213 01	
Selling and administrative expenses		
Advertising . . . . .	37,241 80	1,200 00
Bad debts (1 per cent of sales)	18,721 91	
Commissions . . . . .	75,012 17	
Depreciation, furniture and fixtures . . . . .	1,612 87	403 22
General expenses . . . .	4,718 20	
Office salaries . . . . .	19,102 81	3,600 00
Professional services . . . .	9,160 72	1,000 00
Salaries, officers and execu- tives . . . . .	115,000 00	90,000 00
Traveling expenses . . . .	10,618 01	
Telephone and telegraph	2,817 52	
	<u>294,006 01</u>	600 00
Operating profit . . . . .	393,207 00	
Other deductions		
Interest paid on bonds . . . . .	21,000 00	21,000 00
Estimated net profit . . . . .	372,207 00	
Estimated continuing expenses . . . . .	157,626 00	\$157,626 00
Use and occupancy value	<u>\$ 529,833 00</u>	
Per diem value, suspension period		
Net profit per diem . . . \$	1,240 69	
Continuing expenses per diem	<u>525 42</u>	
Use and occupancy value per diem . . . . .	<u>\$ 1,766 11</u>	

The schedule illustrating the computation of use and occupancy value shows the estimated income and expenses and the continuing expenses for a 12 months period. It is assumed that the income and expense figures "had no fire occurred" are based upon representative operations of prior periods as revised to give consideration to the probable experience after the fire, and that the volume of business is distributed uniformly over the 12-months period. The determination of the extent of expenses that continue depends upon conditions which may vary considerably as the circumstances or the physical aspects of the loss differ. The continuing expenses used are illustrative of those which may be encountered on an actual loss as expenses "that must necessarily continue:"

1. Depreciation on buildings, machinery, and furniture and fixtures based upon a 50 per cent remaining property value and an agreed rate of  $\frac{1}{2}$  of the depreciation customarily taken under operating conditions.

2. Minimum light and power meter charges of \$100 per month.

3. Insurance on remaining property (not including use and occupancy insurance) computed at normal rates.

4. Advertising commitments under non-cancelable contract at \$100 per month.

5. Office salaries of two employees determined as "continuing" in this illustration.

6 Retainer fee of \$1,000 per annum to attorneys.

7. Salaries of officers fully continuing, but minor executives whose services may be dispensed with have been eliminated.

8. Minimum telephone charge of \$50 a month.

9. Superintendent's salary, taxes, and bond interest fully continuing.

#### COMPUTATIONS OF INSURERS' LIABILITY UNDER VARIOUS ASSUMPTIONS AS TO COVERAGE AND EXTENT OF SUSPENSION

I. Coverage \$600,000, shown on form as \$2,000 per diem for 300 business days.

(A) Total suspension, for 12 months·

300 days × \$1,766 11 per diem value . . .	\$529,833
liability of insurers, use and occupancy value.	

- (B) Partial suspension for 12 months, with actual operations computed to result in a net profit of \$61,515 after absorbing all expenses.
- |   |                   |
|---|-------------------|
| Estimated net profit had no fire occurred, per diem | \$1,240 69        |
| Actual net profit per diem                          | 205 05            |
| Loss in net profit, per diem                        | <u>\$1,035 64</u> |

300 days  $\times$  \$1,035.64 = \$310,692 00, liability of insurers.

II. Coverage \$450,000, shown on form as \$1,500 per diem for 300 business days.

- (A) Total suspension for six months
- |   |    |           |
|---|----|-----------|
| 150 days $\times$ \$1,500 coverage per diem | .. | \$225,000 |
|---|----|-----------|
- (recoverable loss limited to amount of insurance carried as actual use and occupancy loss would amount to \$264,916.50)  
(150 days  $\times$  \$1,766.11)

- (B) Partial suspension for 6 months, the actual operations computed to result in a net profit of \$1,950 after absorbing all expenses.
- |  |                   |
|--|-------------------|
| Estimated net profit had no fire occurred, per diem  | \$1,240 69        |
| Actual net profit per diem (\$1,950 $\div$ 150) .... | 13 00             |
| Loss in net profit—per diem . . .                    | <u>\$1,227 69</u> |

Partial suspension, actual loss, \$1,227.69 per diem  
 Total suspension, use and occupancy value, \$1,766 11 per diem  $\times$   
 insurance coverage \$1,500.00 per diem  $\times$  150 days =  
 \$156,406.05, liability of insurers.

III. Coverage \$450,000 for the year with 90 per cent coinsurance clause (not on a per diem basis). Under this policy the computed liability of the insurers under each of the foregoing illustrations would be as follows:

- (A) Total suspension for 12 months: \$450,000, liability of insurers, total coverage

- (B) Partial suspension for 12 months, the actual operations computed to result in a net profit of \$61,515 after absorbing all expenses.
- |  |                                     |
|--|-------------------------------------|
| Insurance coverage, \$450,000                    |                                     |
| 90 per cent of \$529,833 use and occupancy value | $\times$ \$310,692,                 |
| computed loss =                                  | \$293,452.84 liability of insurers. |

- (C) Total suspension for six months
- |  |                                  |
|--|----------------------------------|
| Insurance coverage \$450,000                     |                                  |
| 90 per cent of \$529,833 use and occupancy value | $\times$ \$264,916.50            |
| =  | \$250,000 liability of insurers. |



- (D) Partial suspension for 6 months, the actual operations computed to result in a net profit of \$1,950 after absorbing all expenses

Estimated net profit had no fire occurred, (One-half of \$372,207)	. . .	\$186,103 50
Actual net profit, estimated	. . .	1,950 00
Loss in net profit	.....	<u>\$184,153 50</u>

Insurance coverage \$450,000  
 90 per cent of \$529,833 use and occupancy value  $\times$  \$184,153.50  
 = \$173,784 48 liability of insurers.

- IV. Coverage \$150,000, shown in form as \$500 per diem for 300 business days. Instead of net profit, of \$372,207, as shown on schedule, assume that the business was running at a net loss of \$60,000.

Computation of use and occupancy value

	Amount	Per Diem
Continuing expenses . . . . .	\$157,626	\$525 42
Net loss . . . . .	60,000	200 00
Use and occupancy value . . . . .	<u>\$ 97,626</u>	<u>\$325 42</u>

- (A) Total suspension for 12 months.  
 liability of insurers, \$97,626

- (B) Partial suspension for 12 months, with actual operations computed to result in a net loss of \$90,000 (\$300 per diem) after deducting all expenses.

Actual net loss, per diem . . . . .	\$300
Estimated net loss had no fire occurred . .	200
Increase in net loss, per diem .	<u>\$100</u>

300 days  $\times$  \$100 = \$30,000 liability of insurers

## CHAPTER X

### INSURABLE INTERESTS ✓

**General.**—When the insured's interest in the property is other than that of unconditional and sole ownership, and has been properly insured, the nature and extent of the interest must be verified by the adjuster because of its possible bearing on the adjustment. Insurable interest is defined by one of our ablest law authors as "any equitable or legal estate, or any right which may be prejudicially affected, or any liability which may be brought into operation by a fire."<sup>1</sup> There are a number of insurable interests besides that of unconditional and sole ownership. One of these, that of a vendee in possession, is equal in value to the value of the property under usual conditions, and has, in many states, been held to be sole ownership. Other interests are generally less in value than the value of the property. As an example, the interest of a bailee is, in some cases, of no greater value than the amount of his charges against the property. No attempt will be made to enumerate all insurable interests, as the discussion of those arising out of the relations of vendor and vendee, lessor and lessee, bailor and bailee, and mortgagor and mortgagee will present the principles involved and the methods followed in adjusting losses when the interest of the insured is not that of unconditional and sole ownership.

**Vendor and Vendee.**—Both vendor and vendee may have separate insurable interests in either real or personal property. Their interests arise because of a contract of sale which has not been completed. The vendor's interest ends when the contract has been fulfilled, and thereupon the vendee becomes the unconditional owner. In the case of real property, the contract of sale may be a "Bond for Title," a "Lease Sale Contract," or a "Contract for Title." The vendee usually makes a partial payment when the contract is made, and is then given possession

<sup>1</sup> RICHARDS, Insurance Law, p. 32.

of the property by the vendor who retains the legal title until paid in full.

In the case of personal property, the prevalent method of installment buying has been extended to various kinds of machines, fixtures, and appliances, the seller holding title until the purchaser has completed payment, but meanwhile giving the purchaser possession and use of the article.

**Interest of Vendor.**—When the vendor has parted with possession, and has agreed to deliver title upon receiving a stipulated price, his insurable interest in the property is limited in value to the unpaid part of the consideration due him. If, therefore, property insured solely for the benefit of the vendor is destroyed, the adjuster must determine the amount due the vendor, and compare this with the cash value of the property. If it is less than the cash value the vendor is entitled to collect it in full, but if it is greater, the vendor may only collect the cash value. Recovery in the latter case is limited by the policy condition that insurance is only to the extent of cash value.

**Interest of Vendee.**—It has been held in many states that a vendee in possession of either real or personal property, under an executory contract of sale and exercising acts of ownership, has an insurable interest in the property equivalent to the cash value, unless the contract provides that the vendor shall reinstate in case of fire, a provision seldom found.

**Determination of Separate Interests.**—The interests of vendor and vendee are determined by the contract of sale. The information furnished by the contract should be compared for confirmation with records of payments made by the vendee. In case of the real estate, the contract of sale will ordinarily be recorded in the same manner as deeds and mortgages. Contracts for the sale of personal property were formerly recorded, but since the practice of installment buying has reached its present extent, many are not recorded.

**Lessor and Lessee.**—The relation of lessor and lessee is created by the act of leasing real estate. If the lessee builds on the property, or improves a structure already built, both lessor and lessee may thereafter have insurable interests in the building or the improvements. The insurable interest of the owner, or lessor, is seldom affected by the act of leasing, but

the insurable interest of the lessee is entirely dependent on the terms of the lease, as any improvements made to real estate become the absolute property of the lessor, unless the lease specifically provides to the contrary.

**Interest of Lessor.**—The lessor has an insurable interest in improvements made by the lessee, unless the lease stipulates that they shall remain the property of the lessee and shall be removed at the termination of the lease. A requirement in a lease that the lessee shall restore in case of fire does not abrogate the lessor's interest. In theory the lessor could require the lessee to rebuild. In fact, the lessee might be insolvent and could not, therefore, be made to perform his obligation.

**Interest of Lessee.**—A lessee will have an insurable interest in betterments or improvements if the lease provides that, in case of fire,

- (a) The lease may be canceled, or
- (b) The lessee must repair or rebuild.

Under a lease that may be canceled, the lessee's interest arises because of his expenditure. The interest at the time the improvements are made will be equal in value to the value of the improvements, but the value will diminish as the lease expires. Such an interest may be insured as "Betterments and Improvements," and the form may provide for payment on the same basis as if the insured were sole owner. If it does, an adjustment will not be affected by the terms of the lease, but will follow the procedure of a building loss. But if the form does not so provide, the insured's recovery in case the lease is canceled will be based on the value of his interest at the time of loss.<sup>1</sup> The value of a lessee's interest in such a case is ordinarily estimated as being the portion of his expenditure for building or for improving that would be apportioned to the unexpired term of the lease.

### Example

A lessee spends \$10,000 for improvements. When the improvements are completed the lease still has 10 years to run. Two years thereafter the improvements are destroyed by fire, and the lease canceled. The value of the lessee's interest will be estimated as follows:

<sup>1</sup> See provision for insuring as Leasehold Interest, p 164.

Expenditure for improvements	.. \$10,000
Amount apportioned to each year of lease \$10,000 ÷	
10	1,000
Unexpired term of lease 8 years at \$1,000.....	8,000

If the lease obligates the lessor to repair in case the damage is not great enough to cancel the lease, the lessee is not entitled to collect as long as the lease remains uncanceled.

Under a lease which requires the lessee to repair or restore, the adjustment of the lessee's loss should be handled like the adjustment of a loss on a building.

**Adjustment Factors.**—In losses involving cancelation of the lease the following factors must be determined:

1. The amount expended for improvements.
2. The expiration date of the lease.
3. The date installation of improvements was completed.

Bills, plans, specifications, and canceled checks are pertinent evidence. In losses involving the obligation of a lessee to repair or restore, the adjustment factors are the same as those in building losses.

**Bailor and Bailee.**—When a person in control of personal property entrusts it to the possession of another for a specific purpose, a contract of *bailment* arises. The person in control, usually the owner, is termed the *bailor*, the person with whom he places the property in trust, the *bailee*, and the property itself, the *bailment*.

Bailees include common carriers, commission merchants, consignees, and concerns processing the unfinished merchandise of others, such as bleachers, bookbinders, dyers, finishers, fur dressers, garment workers, printers, spongers, factors, laundrymen, and warehousemen.

The contract of bailment, and the relation of bailor and bailee, may exist under oral agreement, but in many cases is reduced to writing. Thus, a common carrier issues a bill of lading, setting out the contract of carriage, and acknowledging receipt of the property to be carried; a consignor marks his invoice "consigned," and a warehouseman usually issues a receipt. A concern processing property of others may execute a written contract, or may work under established trade customs, receiving and delivering by invoice.

**Liability of Bailee for Loss by Fire.**—As a general rule, a bailee is not liable for loss of the bailor's property by fire except in case of negligence. This rule, however, does not apply to common carriers, which are liable under their bills of lading regardless of negligence, except for losses due to exempted causes. In many cases bailees specifically agree to assume liability, an act which, in the case of warehouses, is usually shown by appropriate wording on the receipt.

**Interest of Bailee.**—A bailee has an insurable interest in a bailor's property because of his charges and also because of his liability in case of negligence. The insurance of such an interest is usually effected by the use of the trust and commission clause, reading:

on his interest in, and legal liability for property held by him in trust or on commission or on joint account with others, or on storage or for repairs.

A bailee, however, may insure the property itself for the benefit of the bailor, at the same time insuring his interest in it. In such a case the trust and commission clause will generally read:

on . . . . . his own, or held by him in trust or on commission or on joint account with others, or sold, but not removed.

A carrier has an insurable interest in goods carried, because of its liability under its bills of lading. A carrier, however, generally insures its liability rather than the property itself.

**Different Interests.**—A bailee frequently has in his possession lots of property belonging to several bailors. This may be insured as a whole by the bailee under the trust and commission clause, or the separate lots may be insured by the bailors. Many cotton warehouses and compresses throughout the southern states accept cotton for storage, and issue warehouse receipts which state that the cotton is insured. Individual owners, however, often insure their own property, as by so doing an adjustment will not be complicated by trouble with another owner, a possibility always present when the warehouseman insures.

In many policies issued to bailees there is an exclusion clause eliminating property insured by the bailors themselves. If

insurance is held by both bailee and bailor, conditions may be such that part of the loss will be payable under policies of the bailee, and part under policies of the bailor.

**Bailor's Measure of Loss.**—The bailor whose merchandise is destroyed is entitled to collect its cash value. The bailor's act in placing his property in the possession of a bailee who performs only the service of storing it does not increase or decrease its value. If the merchandise is of such a nature that it improves by ageing or seasoning, the improvement will take place in whatever suitable place the merchandise is kept. The improvement in such a case is due to the passing of time, and the increase in value is not necessarily proportionate to the expense of storing. In spite of this, bailors will frequently make claim for warehouse charges in addition to the cost or market value of the merchandise itself. Such claims are improper. Property may remain in storage until the incurred warehouse charges are a serious item, but the price the owner would be offered, should he try to sell, would certainly be no greater than the price offered another merchant for the same kind of merchandise.

There is much controversy over the bailor's measure of loss when his property burns while in possession of a bailee, who has done work on it. A case of this sort is presented when loss occurs in the factory of a clothing contractor who makes up finished clothing from the cut parts sent to him by the merchants or manufacturers who will sell the clothing. In some territories the practice is to pay the bailor for the value of his material as delivered to the bailee. In others the bailee's charge for labor is accepted as having increased the value of the property, and the bailor is paid accordingly.

**Bailee's Measure of Loss.**—If the insurance covers only the bailee's interest, his collection will be limited to the charge earned in handling the property. When the bailee is paid, the company is entitled to receive an assignment of the charges to be collected from the owner of the property. A bailee should not be paid a greater sum for charges than he would have been able to collect had no fire occurred.

If the insurance describes the property, and contains the trust and commission clause, the bailee is entitled to an adjustment based on the cash value of the property at the time of the loss and

must account to the bailor for any funds collected. The courts have construed the trust and commission clause as entitling individual bailors to *adopt* the bailee's insurance, and if the bailee fails to make claim for their property, to make claim themselves.

Because the bailor has a right to adopt the bailee's insurance, the insurer of the bailor can demand contribution from the insurer of the bailee unless the policies specifically deny the right of such contribution by the terms of their exclusion clauses. In many cases, however, policies are carried by both bailor and bailee which do not contain exclusion clauses and in these cases the right of contribution arises. The presence or absence, however, of separate insurance does not increase or decrease the measure of loss to be used as a basis of adjustment.

**Legal Liability.**—A bailee often insures his legal liability for property under his charge, as by so doing he avoids the necessity of complying with coinsurance or average charges which are often required when insurance covers the property itself. Insurance of legal liability is generally restricted to cases in which the bailee has no means of knowing the value of the bailor's property, and in which the bailee is responsible for loss only under certain conditions. Common carriers are responsible for loss by fire to property under their bills of lading, except when the fire is due to an act of God, or other cause specifically exempted by the bill of lading. The carrier's liability ends when the property has been delivered, or when it has arrived at its destination, and has been held for a stated period. It is therefore, necessary, when adjusting a loss under insurance covering a carrier's legal liability, for the adjuster to determine whether the loss occurred at a time when the carrier was liable. This is usually done by making an examination of the bill of lading, and of the carrier's records covering the arrival of the goods at the place of the fire. As in many policies covering a carrier's legal liability the carrier is given the right to make settlements with shippers, the adjuster will often find his work confined to auditing the carrier's records. These records should include the original bill of lading, the consignor's verification, and the invoice filed in connection with each claim.

**Deliveries.**—Merchandise in a warehouse may be delivered from one person to another without actual physical movement



of the merchandise. The warehouse receipt, when passed from one person to another, carries with it title to the property, the delivery of the receipt effecting a delivery of the merchandise. The adjuster will frequently have to determine the exact time a delivery was made, in order to decide whether a loss falls under the policy of the person making the delivery, or the policy of the person accepting it.

A carrier may make a *constructive delivery* to a consignee, although the property may remain on the premises of the carrier.

A delivery which will discharge the carrier may be constructive and not actual. To constitute a "constructive delivery," the carrier must, if practicable, give notice to the consignee of the arrival, and when this has been done, and the goods are discharged in the usual and proper place, and reasonable opportunity offered to the consignee to remove them, the liability of the common carrier as such terminates.<sup>1</sup>

**Problems of Adjustment.**—When the premises of a bailee are seriously damaged, the adjuster may have to deal with the property of several bailors, and check the separate values and damages.<sup>2</sup>

If the property can be identified, the work should be done by making a physical separation of the lots, followed by a checking of the individual schedules of the bailors against the property itself. If the property has been damaged so that the separate lots cannot be identified, the adjustment may be based on the records of the bailee, which should be compared with the books of account and the receipts or contracts in possession of the respective bailors. If the loss requires salvage operations, any salvage which can be identified must be credited to the account of the bailor to whom it belongs, or to the insurance company, or companies, insuring him. If, however, the salvage cannot be identified, it should be sold for account of whom it may concern, and the proceeds apportioned among the bailors or the companies insuring them, according to the values established. Almost all serious fires in cotton warehouses necessitate this method adjustment, as the indentifying marks on cotton

<sup>1</sup> *Becker v. Pennsylvania R R Co*, 96 N. Y. Supp. 1, 5, 109 App. Div. 230 (quoting *Tarbell v. Royal Exchange Shipping Co.*, 17 N. E. 721, 724, 110 N. Y. 170, 180).

<sup>2</sup> See p. 407.

are easily destroyed. When the adjuster must deal with a loss of this nature, he should control the adjustment of all losses in the premises, or cooperate with other adjusters.

**Salvaging in Warehouses.**—When property is stored with a warehouseman, and all or any part is damaged so that it cannot be identified, salvage operations may be conducted under an agreement with the warehouseman, without waiting for the appearance of individual owners.<sup>1</sup>

**Warehouse Charges.**—When handling losses in warehouses, warehouse charges must be kept in mind, as a warehouseman, except in case of negligence, has a lien on any salvage to the extent of his earned charges. Bailors should, therefore, be notified that, before an adjustment will be made, they must pay the warehouse charges to the date of fire. Warehouse charges accruing after the salvage has been taken for account of the company follow the salvage. Warehouse charges are not collectible by bailors, for the same reason that rent is not collectible under a policy insuring stock.

Strictly speaking, warehouse charges accruing to the date the property is taken over for salvaging should be paid by the insured. The date of the fire, however, is used in ordinary practice.

**Substitutions.**—There are times when the burning of the contents of a warehouse gives rise to a number of fraudulent claims for property which was not insured. The owners of the uninsured property compare notes with the owners of the insured property, and, if there is a margin between the amount of insurance carried and the value of the property actually insured, the uninsured owner will frequently prevail on the insured owner to include the uninsured property in his claim. In the case of a cotton warehouse, a policyholder might have sold his cotton without canceling his policy, expecting to store other cotton at an early date to be covered by the same policy. If fire occurs while he has no cotton in the warehouse, his uninsured neighbor may prevail on him to present a claim for the neighbor's cotton. Transactions like this are frequently suspected, but seldom proved, as the parties tell a pre-arranged story. The broad coverage of a policy containing the trust and commission clause makes it extremely difficult for the adjuster to defeat

<sup>1</sup> See copy of salvage agreement, p 343.

improper claims of this sort. If he suspects that a substitution has been made, he should examine all purchase records of the insured, and if possible get access to his bank account and canceled checks. The ordinary warehouse receipt for cotton is issued to the person who stores the cotton. Thereafter, the receipt passes from hand to hand without even being endorsed, the final purchaser customarily paying all accrued storage charges. The warehouseman, therefore, has no record which will always indicate who owns any particular bale of cotton.

In some cases the adjuster will unearth substitutions made without the knowledge or the consent of the insured. Occasionally, persons having access to the warehouse will remove property of good quality, substituting in its place an inferior grade. The substitution will generally be made in the hope of concealing the theft as long as possible. Such substitutions are not numerous, and can only be discovered if the fire is extinguished before the property is burned beyond identification.

**Theft or Surreptitious Removals.**—The theft or surreptitious removal of property belonging to bailors is a comparatively common occurrence. As long ago as 1869 a commission appointed by Parliament reported on the prevalence of such occurrences in connection with warehouse fires in England. Fires are frequently started in warehouses in order to conceal theft or surreptitious removals.

**Final Papers.**—When a loss is adjusted on property in possession of a bailee, the adjuster should require the bailor to produce for examination the warehouse receipt or other document issued by the bailee. If the loss is total, or if the salvage is taken out and sold, the warehouse receipt should be taken up by the adjuster, and forwarded to the company with other final papers.

**Mortgagor and Mortgagee.**—The mortgagee of real estate usually protects his loan by having a policy covering the property made payable to him, though written in the name of the mortgagor. To accomplish this in a manner that will give him the greatest protection, he usually requires the use of the standard mortgagee clause. The pledgee or unpaid vendee of personal property is generally protected by a loss-payable clause. While the standard mortgagee clause creates a separate contract between the company and the mortgagee, and is far more favor-

able in its terms than the ordinary loss-payable clause, there are many losses in which its presence does not vary the procedure of the adjustment. As the ordinary loss-payable clause merely designates to whom a loss shall be paid, such a clause does not affect the adjustment, except in states whose courts have read into it the terms of the standard mortgagee clause. The separate contract created by the standard mortgagee clause requires at times a separate adjustment with the mortgagee.

**New York Standard Mortgagee Clause. For Use in Connection with First Mortgage Interest on Real Estate.**

Loss, or damage, if any, under this policy, shall be payable to  
 ..... as ...  
 mortgagee [or trustee] as interest may appear, and this insurance, as to the interest of the mortgagee [or trustee] only therein shall not be invalidated by any act or neglect of the mortgagor or owner of the within described property, nor by any foreclosure or other proceedings or notice of sale relating to the property, nor by any change in the title or ownership of the property, nor by the occupation of the premises for purposes more hazardous than are permitted by this policy, **Provided**, that in case the mortgagor or owner shall neglect to pay any premium due under this policy, the mortgagee [or trustee] shall on demand pay the same.

**Provided** also, that the mortgagee [or trustee] shall notify this Company of any change of ownership or occupancy or increase of hazard which shall come to the knowledge of said mortgagee [or trustee] and unless permitted by this policy, it shall be noted thereon and the mortgagee [or trustee] shall, on demand, pay the premium for such increased hazard for the term of the use thereof; otherwise this policy shall be null and void.

This Company reserves the right to cancel this policy at any time as provided by its terms, but in such case this policy shall continue in force for the benefit only of the mortgagee [or trustee] for ten days after notice to the mortgagee [or trustee] of such cancellation and shall then cease, and this Company shall have the right, on like notice, to cancel this agreement.

Whenever this Company shall pay the mortgagee [or trustee] any sum for loss or damage under this policy and shall claim that, as to the mortgagor or owner, no liability therefor existed, this Company shall, to the extent of such payment, be thereupon legally subrogated to all the rights of the party to whom such payment shall be made, under all securities held as collateral to the mortgage debt, or may at its option,

pay to the mortgagee [or trustee] the whole principal due or to grow due on the mortgage with interest, and shall thereupon receive a full assignment and transfer of the mortgage and of all such other securities; but no subrogation shall impair the right of the mortgagee [or trustee] to recover the full amount of . . . . . claim.

When loss occurs, the ordinary procedure of adjustment will be followed if the policy is valid as to the insured, but a quite different one if it is void. In the first instance, the presence of the mortgagee clause will require little more of the adjuster than that he properly prepare the proof of loss. In doing so he should note the name of the mortgagee, the amount remaining unpaid on the mortgage, and the date due. But when the policy is void as to the insured, a quite different procedure may have to be followed. In rare cases the mortgagee may be well secured by the remaining value of the property, and may elect to make no claim whatsoever, knowing that should he do so he would be compelled to assign to the company an interest in his mortgage equal to the amount collected. Ordinarily, however, the mortgagee demands payment. When he does, the adjuster may recommend one of two methods of adjustment, either to pay the actual damage and take an assignment, or to purchase the mortgage. If the first method is to be used, the amount of loss is determined by agreement or appraisal, the mortgagee taking the place of the insured; if the second, the amount of the mortgage debt is ascertained and made the basis of the settlement. The mortgagee's assignment of an interest in his mortgage is, of course, subordinate to his eventual collection of the full debt due him. When the full amount of the mortgage debt is to be paid, and the mortgage purchased, the original note or notes, or other papers recording the debt and any payments thereon, should be examined, and the amount due thus ascertained. Any charges, such as taxes or insurance paid by the mortgagee, should be checked for correctness. Payment and assignment are usually left to the company's direction, and may be made through an attorney who will arrange for foreclosure, if necessary. While forms of assignments are to be found in the appendix,<sup>1</sup> the adjuster should not undertake to handle assignments unless specifically directed to do so, as many companies prefer to have this done by attorneys.

<sup>1</sup> See p. 369.

When several mortgagee interests are insured under the same policy, it may become necessary to treat with the mortgagees separately. Their technical rights in such a case are determined by the order of their priority, the first mortgagee being entitled to satisfaction before the second can collect. But when several mortgagees hold separate policies, each one looks to his own policy, though in practice pro rata payments are accepted in partial losses.

**Full Contribution Clause.**—This clause, when used, appears as a section of the mortgagee clause.

In case of any other insurance upon the within-described property, this Company shall not be liable under this policy for a greater proportion of any loss or damage sustained than the sum hereby insured bears to the whole amount of insurance on said property, issued to or held by any party or parties having an insurable interest therein, whether as owner, mortgagee or otherwise.

Under this clause the loss is apportioned on a pro rata basis to the mortgagee's policy as a matter of contract right. In case of assignments its presence in the mortgagee clause makes no difference in the procedure, except in some cases to fix the amount to be paid.

**Statutory Rights of Mortgagees.**—In Massachusetts, the mortgagee's rights under the policy are not dependent on the use of the standard mortgagee clause, but are fixed by statute.

**Loss Payable Clause.**—The loss payable clause has many forms, its ordinary phraseology being:

Loss, if any, under this policy payable to John Doe as interest may appear.

Except in those states whose courts have read into the clause the intent of the standard mortgagee clause, the payee has no rights other than to receive what may be due the insured. Therefore, the presence of a loss payable clause ordinarily calls for nothing more than a verification of the payee's interest in the property, and a proper statement in the proof of loss describing its nature and amount. Verification seldom goes further than questioning the insured, though in cases of dispute the payee should be asked to show evidence establishing his interest. As in some states the right of action rests in the payee alone if his debt exceeds the amount of loss, it is important, should litigation be threatened, that the amount of his debt be established.

## CHAPTER XI

### LIABILITY

**General.**—The adjuster must make sufficient investigation of the facts and circumstances attending a loss to determine whether the company is liable under the policy contract. His investigation must cover the question of liability at the time of loss, and the question of the insured's compliance thereafter with the policy's requirements in case of loss. While liability may exist at the time of loss, it may later be extinguished by acts or omissions on the part of the insured. This chapter will deal with liability at the time of loss, and from then to the time claim is presented. The next chapter will deal with the requirements which the insured must fulfill after a loss. The questions necessary to determine whether liability existed at the time of loss are the following.

1. Has the insured suffered a loss?
2. Did the loss occur during the term of the policy?
3. Was it due to direct damage by fire or lightning?
4. Did the property described in the policy suffer loss or damage?
5. Does the claim contain items of uninsurable or excepted property?
6. Was the loss, or any part of it, caused by hazards that are excepted?
7. Was the policy void at the time of the loss, or did the loss occur while the policy did not cover, or while it did not cover certain articles that were lost or damaged?
8. Had the policy been canceled before the fire?

**Loss Sustained.**—Unless the insured sustains an immediate or a future financial loss as the result of injury to the property, there is no liability under the policy contract. Suppose, for example, a contractor insures his interest in a house he builds for another. Suppose he finishes the work and is paid in full, but

neglects to cancel his policy. If the house burns he sustains no loss. Or suppose a municipality wishing to impound the waters of several streams and create a large reservoir, lawfully condemns the property in the area to be submerged, and obligates itself to pay the owners the fair value of their lands and buildings. Suppose the owners vacate but continue their insurance. If the buildings burn, they will sustain no loss.

In making a determination of loss sustained, the adjuster will rarely encounter cases similar to those presented, but will often find two sets of policies insuring two different interests, and will be under the necessity of deciding which interest has sustained the loss. Insurance is seldom effected unless the person taking the policy has an insurable interest in the property at the time the policy is written, but insurance is not always canceled when the insurable interest ends. The sale of property often creates two insurable interests, one of which is to end on the happening of a stated event, usually on the execution of a deed, or the payment of a stated sum of money, the other to continue in the vendee. In handling a loss occurring while property is held under contract of sale, the adjuster must make an examination of the contract itself, which will generally show who is the sufferer.

In all cases the insured must have an insurable interest in the property<sup>1</sup> before he can sustain a loss, and this interest must be adversely affected by the fire. There is at least one insurable interest that will be affected by a total destruction of the property, but not by a partial injury. This is the interest of a lessee in betterments and improvements installed under a lease stipulating that in case of partial injury the landlord must restore the premises,<sup>2</sup> but that in case of total destruction the lease shall become void. There is no injury to such an interest in case of partial loss, but there is a total loss of the interest if the property is destroyed.

**Term of Policy.**—The adjuster's investigation must establish whether the loss occurred during the *term* of the policy, as there is no liability for loss occurring before the policy commences or after it expires. The insurance contract presupposes a risk that is in existence, and not on fire, at the time the contract

<sup>1</sup> See definition, p. 192.

<sup>2</sup> See p. 211.



takes effect. After commencement, the contract covers up to the moment of its expiration, and if fire breaks out only a few seconds before expiration, the full damage done is covered.

All standard policies commence and expire at the hour of noon. In the present New York standard policy the word noon has been defined as noon of standard time at the place where the property is located. A similar definition appears in a number of forms intended for use with policies which do not define the word. Daylight saving time is standard in states which have established it by statute. Accuracy in the determination of the time at which a loss occurs is of greatest importance when the policy commences or expires on the day of the loss.

**Fixing Time of Fire.**—In fixing the time of the fire, the adjuster should compare the statement of the insured with the other evidence that is to be had. In the proof of loss the insured is required to state under oath his knowledge or belief as to the time. In practically all cities records are kept by the fire department showing the time of fire alarms. While there are no such records in country districts, the people are alert to the happening of fire, and there is usually little difficulty in fixing the time with a fair degree of accuracy. When the time is a matter of importance, the statements of neighbors or passersby should be recorded.

Isolated property is occasionally destroyed by brush or forest fires. As these fires are often fought by property owners, or by rangers, information as to the time the fire reached a given place can sometimes be gained from the fire fighters. If they were not near enough to the property to note when it took fire, the time can be approximated from the rate of speed at which the fire was moving. In some cases, however, the time at which an isolated piece of property was destroyed cannot be fixed. When dealing with such a case, the adjuster should submit his findings to the company before completing an adjustment.

**Suspected Issuance of Policy after Fire.**—Occasionally there will be reason to suspect that the policy was actually issued after the loss had occurred. If facts justify the suspicion, the adjuster should trace as far as possible the course of the daily report from the agent's office to the office of the company. If the envelope in which it was mailed can be obtained, the postmark

will indicate the approximate time of mailing. If the agent's office is in territory under the jurisdiction of a stamping office, the record of the stamping office will throw additional light on the matter. As a rule, the stamping office maintains a record showing when daily reports are received. The suspected issuance of a new policy should ordinarily be looked upon more seriously than the suspected issuance of a renewal, but in any case the adjuster should diplomatically, yet thoroughly, cover all sources of information to be had.

**Binders and Oral Agreements.**—Losses sometimes occur under *binders*, or under oral agreements to insure. Binders are usually prepared on receipt of the order to insure, and the insurance commences at the moment the order is accepted. In many states an oral agreement to issue a policy is a binding contract, whether the policy is to cover a new risk, or is to renew a policy that is expiring. There are cases in which it is suspected that the binders were issued after the fire. In such cases, if the property has not been previously insured, the investigation should be searching. In investigating a loss under an oral agreement to insure, the adjuster should have the agent and the insured write separate letters setting out the agreement as each remembers it; or he should reduce to writing the statement of each, and have it signed.

**Expiration and Commencement during Fire.**—There may be rare occasions when the adjuster will find that one policy expired during the progress of the fire, and that a policy in another company went into effect. According to the best insurance opinion only the first policy will be liable. There have been some attempts to make collection in such cases under the second policy, if the amount of loss exceeded the amount of the first policy. These claims have been universally resisted on the ground that a policy is not effective if the risk is on fire at the time the policy commences.

**Direct Loss and Damage by Fire.**—The policy covers *direct loss and damage by fire*, direct, meaning immediate or proximate as distinguished from remote. When fire consumes, scorches, cracks, melts, heats, or evaporates solid, liquid, or gaseous property, it does direct damage. The result of fire, however, may include things other than combustion, such as the fall

of a building; or injuries to property by water, by firemen, or by efforts of persons to remove it to a place of safety. The result of fire will also include rain damage to the interior of a building, if the owner, acting with reasonable diligence, has not had time to close the roof or windows against the weather. But if the owner, instead of acting with reasonable diligence, should refuse to take any steps to protect his property, and some weeks later further loss should occur as the result of rain, the further loss would be looked upon as a consequence of the owner's negligence. The policy does not cover loss which is the consequence of an independent intervening cause.

Fire is a friendly or a hostile agency depending on the manner of its origin and the place in which it is burning. Fire in a fire-place, stove, furnace, kiln, or similar receptacle is a *friendly fire*. It continues to be friendly so long as it remains within the limits where it is intended to burn, and any damage done whether by heat or by smoke is not covered by the policy. Fire outside of a place or receptacle in which fire is intended to burn is a *hostile fire*. The word fire, as used in the policy, refers to hostile fire.

**Consequential Losses.**—*Consequential losses* are not covered. These losses are the consequence of fire, but are not sustained by reason of direct action by fire. For purpose of illustration, suppose that a dealer in fresh meats preserves his stock in a building equipped with electric refrigeration, the power being obtained from a public power house in a distant section of the city. Suppose that the power line supplying his premises passes a certain structure many blocks away. This structure burns; its walls fall across the power line and break it. If emergency lines cannot be quickly run, there will be a sufficient interruption of service to allow a rise in temperature in the meat storage rooms. If this happens, the meat may spoil, causing the dealer to sustain a loss. This loss will not be covered under the dealer's policy covering the meat, as the meat was not injured by direct action of fire.

**Friendly Fires.**—Damages are frequently caused by friendly fires. A chair may be left in front of a fireplace where the heat may be sufficient to blister or scorch the chair without causing actual ignition. The damage in such a case is not covered, as the fire causing it is friendly. The adjuster will encounter claims of

this sort in connection with fireplaces, electric irons, smoking furnaces, smoking oil stoves, smoking oil heaters, and, in manufacturing plants, from a variety of appliances too numerous to mention. The increasing use of oil heaters in dwelling houses has been responsible for a number of claims for smoke damage, due to failure of the heater to function properly.

There are a number of casualties in glass works due to the breaking of tanks containing cullet, which is glass in the making, the break allowing the white-hot cullet to run into the pit under the tank or over the floor of the plant. The heat from the molten cullet frequently does serious damage. Unless fire occurs, such casualties are not true fire losses, but they often bring about serious controversies, as the adjuster is seldom able, because of the excitement and confusion following the break, to get conclusive evidence which will determine what happened.

The use of heat in industry is responsible for occasional claims resulting from the failure of furnaces, ovens, stills, retorts, or other units under the heat of their own process. The extensive use of gas and oil is responsible for many claims following explosions under circumstances that present no real element of hostile fire. Claims are made also for articles unintentionally thrown into fireplaces or furnaces, or left in the ovens of stoves for safekeeping. Such claims are improper.

**Burglars' Torches.**—At times burglars seriously injure a safe or a vault in their efforts to make entry with an acetylene torch or electric arc. Losses due to such damage are collectable under burglary policies, and should not be classed as fire damages.

**Location and Identity of Property.**—The form attached to the policy describes the property and its location. Ordinarily there is little difficulty in identifying the property, but occasionally disputes arise because of ambiguous language. If the form itself does not identify the property and location beyond dispute, the intent must be tested by the statements of the insured, on the one hand, and of the agent, or countermand, on the other. If the adjuster finds it necessary to call for statements explaining the intent of the insured and the agent, he should have the statements reduced to writing and signed. Such statements should be forwarded to the company as documents supporting his report. Sometimes property is described as located according

to a diagram or map on file in a stated office. In cases of dispute, the diagram should be studied.

**Party Walls.**—Adjoining owners frequently erect structures separated by a single wall built at joint expense. Occasionally the owner who builds last purchases from his neighbor the right to use the wall for one side of his building. If the adjuster takes up a loss on a brick building adjoining another, he should make prompt inquiry into the ownership of the wall between, if there is any claim for damage to the wall itself. Party wall agreements are frequently reduced to writing and placed on record, as are deeds, mortgages, and other instruments evidencing ownership of real estate. Occasionally, however, party walls are erected or used without written agreement.

The adjuster should bear in mind that, while damage to the finish on one side of a party wall is collectible under the insurance held by the owner of the building in which the damage occurs, half of any damage to the wall itself is to be borne by the insurance held by each owner. Any estimate of damage to a building having a party wall should show the entire damage to the wall, and the proportion allotted to the insurance which the adjuster is handling.

**Betterments and Improvements.**—Many city tenants alter or improve their premises to suit peculiar needs. Such premises are generally leased for a term of years with the understanding that the tenant shall submit any plans for alterations to the landlord, who may become the owner of the improvements as soon as they are installed. Quite generally the tenant will insure the improvements. It is sometimes difficult to determine where betterments and improvements end, and the building itself begins. The adjuster who has before him the problem of differentiating between improvements and building should examine the lease and any plans and specifications obtainable. An examination of the lease will often show that the tenant has no insurable interest other than his right of possession, a subject discussed in the chapter on leasehold insurance.<sup>1</sup>

**Additions and Extensions.**—Almost all policies covering buildings incorporate in the form the words "*additions and extensions*" The adjuster will encounter numerous claims for

<sup>1</sup> See pp. 192 and 194.

damage to separate and independent structures, and will find that court decisions give little help in determining just what is an addition. In making an investigation of such a claim, the adjuster should determine whether the structure claimed as an addition is rated independently of the building. If a separate rate has been published, its existence is the best possible proof that the structure is not an addition, but is a separate entity.

**Subsequently Erected Structures.**—If a policy covers a group of buildings or their contents, the adjuster should determine whether all of the structures were in existence at the time the insurance commenced, as otherwise some may not be covered.

**Uninsurable Property.**—Uninsurable property should give the adjuster little trouble, as the items declared to be uninsurable are personal property, and the policy requires that claim for such property shall be itemized by individual articles. If, therefore, an item of uninsurable property appears in the claim, the adjuster need only point out to the insured the line in the policy which declares that such property is not insured. Uninsurable property is listed in lines 7, 8 and 9 of the present New York standard policy as accounts, bills, currency, deeds, evidences of debt, money, notes or securities. The same property is listed as uninsurable in lines 37 and 38 of the 1886 edition of the New York standard policy.

**Excepted Property.**—Because excepted property becomes insured property if it is specifically named in the form, it will at times produce some difficulty for the adjuster. Claim will frequently be made for excepted property which is not named in the form, on the theory that the wording of the form was intended to include it. This will bring about a controversy which can only be determined by the decisions of the particular state in which the controversy arises. Many items of excepted property are regularly inventoried with the other items in mercantile and manufacturing establishments. It is, therefore, necessary that the adjuster should examine, item by item, any inventory which is presented to him, and strike from it excepted articles. Excepted property is listed in lines 10 and 11 of the present New York standard policy as bullion, manuscripts, mechanical drawings, dies or patterns. Excepted property is listed in lines 39, 40 and 41 of the 1886 edition of the New York

standard policy as follows: awnings, bullion, casts, curiosities, drawings, dies, implements, jewels, manuscripts, medals, models, patterns, pictures, scientific apparatus, signs, store or office furniture or fixtures, sculpture, tools, or property held on storage or for repairs.

**Excepted Hazards.**—The policy contract excepts from its cover, loss caused by:

(a) Invasion, insurrection, riot, civil war or commotion, military or usurped power, or by order of any civil authority.

(b) Theft.

(c) Neglect of the insured to use all reasonable means to save and preserve the property at and after a fire, or when the property is endangered by fire in neighboring premises.

(d) Explosion or lightning, unless fire ensue, and in that event, for loss or damage by fire only.

The policy also provides:

If a building, or any material part thereof, fall, except as a result of fire, all insurance by this policy on such building or its contents shall immediately cease.

**Invasion, Insurrection, Civil War, Military or Usurped Power.**—Since the Civil War there have been no losses in the United States caused by the hazards of invasion, insurrection, civil war, or military or usurped power. In the cases which grew out of the Civil War, the adjuster's task was apparently limited to a search for witnesses who could testify that the property was fired by soldiers of either army.

**Riot and Civil Commotion.**—Riot is a tumultuous disturbance of the peace by three or more persons assembling together on their own authority with the intent mutually to assist one another against all who shall oppose them, and afterwards putting the design into execution in a turbulent and violent manner, whether the object in question be lawful or otherwise. Civil commotion means violent or irregular action, or tumultuous conduct, on the part of any persons assembling together. While fires resulting from riots have been numerous, the only reported American cases involving civil commotion arose during the Civil War. In the United States, race antipathies and labor troubles are the most common causes of riots. Distress in

agricultural communities, due to over-production of staples, has occasionally led to night riding and the burning of barns or warehouses by organized bands. In a race riot at Tulsa, Okla., fires started by rioters did serious damage, as was also the case in a riot attending a strike at Youngstown, Ohio. As an instance of riot following agricultural troubles, the burning of tobacco warehouses in Kentucky may be recalled.

The adjuster investigating a riot claim must determine whether the fire was started by rioters, intentionally or accidentally, or whether it originated as the result of circumstances which would not have existed except for the riot. Mere proof that a fire started during a riot will not bar a claim. The adjuster, therefore, should locate credible witnesses who can testify to the existence of a riot, and to the act or circumstance causing the fire.

**Order of Civil Authority.**—The health officers of a district may order a building burned because it has been a breeding place for disease. The same authorities may fumigate a structure with sulphur candles, and the structure may take fire because the necessary precautions were not taken when the candles were placed. In either case the loss is due to the order of civil authority, and is not collectible. It has also been held by the Supreme Court of Georgia that if the municipal authorities order a building dynamited to prevent the spread of a conflagration, the loss is not collectible.

In cases involving order of civil authority, some public officer has generally issued the order causing the destruction of the property. Ordinarily the order will be a matter of record. It is incumbent on the adjuster to get a copy of the order, and to supplement this by the statements of the persons who executed it. If the order was given orally the statements of persons in whose presence it was given should be taken.

**Theft.**—As the early forms of fire policies did not exclude loss due to theft, the courts when passing on these early policies held the companies liable for loss of property stolen during a fire, or thereafter while the salvage was exposed. Theft under such circumstances was held to be one of the results of fire, like injury to property by the acts of firemen. In the excitement and confusion attending a serious fire, persons having access to the



premises can commit theft with little chance of detection. After a fire there is generally some delay in making the premises secure or removing the salvage to a place of safety, during which the disorder and confusion offer opportunity for theft.

Loss due to theft is difficult to prove, unless the fire damage is slight. Undoubtedly, many thefts at fires are never even suspected, as the evidence is destroyed with the destruction of the premises. Usually theft is disclosed when vacant shelves or cases in slightly damaged premises show that goods have been removed. The adjuster, therefore, is seldom able to do more than compare the condition of the premises with the list of property as claimed, and seek to eliminate missing articles which because of their indestructibility or their location ought to be in sight.

Theft before a fire is a comparatively frequent occurrence in warehouses and establishments handling merchandise belonging to bailors. Staple articles of ready sale, such as cotton, silk, or newly made-up garments are often stolen. When dealing with property in custody of a bailee, the adjuster should be on the lookout for shortages. If theft is suspected, the entire contents of the premises may have to be checked, particularly if only one kind of property is handled. In a cotton warehouse, for example, the damage may be limited to a dozen bales on which the identifying marks have been destroyed. One person may claim ownership of the entire dozen because a dozen bales of his cotton may be missing. This, however, is not enough to prove that the cotton is his. A general check-up of the contents of the warehouse may reveal that cotton belonging to other owners is also missing, and that while there has been a fire damage to a dozen bales, there has been a theft of many more.

**Neglect to Preserve the Property.**—The policy requires the insured to use all reasonable means to preserve the property at and after a fire, the intent being to require the insured to use such reasonable means as are available to prevent loss. As it is usually difficult to determine what should have been done during a fire, there are few claims in which it is possible to demonstrate neglect on the part of the insured. After a fire, apathy, shock, or a desire to increase his collection of insurance money may cause an insured to neglect his property and thereby suffer

additional loss. The adjuster will be more successful in preventing such loss than in excluding it from the claim once it has occurred.<sup>1</sup>

**Explosion.**—The policy excepts from its coverage, loss due to explosion, unless fire ensue, in which event the liability is limited to the amount of fire damage only. Because of this condition many controversies arise over explosion claims. An explosion which occurs during a hostile fire is considered to be an incident of the fire, and the damage done by such an explosion is covered. If a collection of gas is exploded by a friendly fire, such as the flame of a gas jet, a match intentionally struck, or the fire in a fireplace or a furnace, the damage resulting is not covered. The claims which produce controversies are those in which the cause of the explosion cannot definitely be determined.

Cases will be presented in which damage caused by ensuing fire is to be separated from damage caused by explosion. If the explosion has blown out windows, ruptured the roof, or done other damage which can still be seen after the fire, it will be possible to make a fair separation of the explosion loss from the fire loss. If, however, an explosion occurs inside a frame building which then burns to the ground, it will be impossible to distinguish between the fire loss and the explosion loss. A claim covering loss due to the joint action of explosion and fire may offer no accurate basis for the adjustment, and may possibly have to be settled by compromise. While in such a case the burden of proof is on the insured to show the amount of fire damage, in case of litigation a court will generally be liberal in admitting testimony favorable to the insured.

**Lightning.**—While the present New York standard policy excludes direct loss by lightning, and covers only ensuing fire damage, the assumption of liability by use of the lightning clause has become practically universal. The adjuster, therefore, will seldom find that lightning damage is not covered by the policy, except when suffered by electrical equipment. Various exemption clauses are incorporated in forms covering such equipment, their purpose being to exclude liability for loss or damage to electrical equipment due to electric currents, artificial or natural. Some of the clauses specifically state that nothing in the lightning

<sup>1</sup> See Chapters IV, V, and VI, also p 234.

clause shall contravene the terms of the electrical exemption clause, while others rely upon the exemption feature alone. Other clauses assume liability for damage by electrical injury or disturbance provided fire ensue. Serious losses to generators and motors result from lightning striking power lines, or setting up static disturbances sufficiently powerful to rupture installation and produce short circuits which burn out the machines.

At the present moment damages to heavy generators are giving the insurance companies much concern. Some of the electrical exemption clauses provide that the company shall be liable only for damage done by any fire which may ensue, a provision which requires the adjuster to collect all available evidence to determine whether any part of the damage resulted from an ensuing fire. It is practically impossible to repair extensive damages to large generators except in the plants where these machines are produced, consequently they are generally shipped to the nearest plant of the producer, and there dismounted and rehabilitated. The evidence to be obtained from an examination of the coils and other wiring is not conclusive as to the occurrence of fire, for a high degree of heat may be generated by the current without being followed by independent and self-sustaining combustion. There is, at the present moment, a disagreement over the meaning to be given the phrase "if fire ensue." Some underwriters consider the words to contemplate a fire which shall exist outside of the machine itself, others believe that, if independent combustion takes place in the winding of the machines after the current has ceased to flow, there is ensuing fire within the meaning of the phrase. No adjuster should attempt to handle an investigation of a lightning damage to a large generator without the aid of a competent electrical engineer.

A number of troublesome claims arise under the lightning clause, as the result of wind damages when no tornado insurance is carried. Wind of high velocity frequently accompanies thunderstorms, blowing over chimneys or injuring other parts of a building. Claimants will occasionally present claims for such injuries on the theory that they were caused by lightning, giving the adjuster a difficult problem to handle, as friends and neighbors will assert that lightning was the cause, although

the physical evidence will show only the effects of wind stress. Such claims can seldom be defeated in litigation, and are usually compromised.

**Fall of Building.**—Faulty construction, overloading, an earthquake, the impact of a heavy truck, or the excavation of an adjoining site may cause a building or one of its walls to fall. Fallen buildings frequently take fire from stoves, furnaces, or fireplaces. Occasionally the wiring in a fallen building will be short-circuited, and ignite the debris. Claims presented after the fall of a building are frequently based on the theory that the building was on fire before it fell, and that the fire caused the disaster. A proper investigation of such claims requires the collection of statements from available witnesses, a careful examination of the debris, a notation of the extent of the fire, and when possible, a determination of the character and weight of the contents and the probable load on the floors. A building which collapses because the adjacent site is being excavated seldom produces a troublesome claim, the cause of the collapse being self-evident.

**Building Blown Down by Wind.**—A cyclone, tornado, or windstorm may level a building, or cause a material part to fall. Fire may follow, and the owner present a claim stating that the building was on fire before it was damaged by wind. Fortunately claims of this sort are becoming less frequent since tornado insurance is being written more freely. Many buildings are now insured under combination policies covering both the fire and tornado hazard, with the tornado policy containing the "bridging-the-gap" clause, which, in the event of the building being first blown down and then taking fire, places the entire loss on the tornado policy.

**Fall of Building Due to Explosion.**—The policy does not necessarily cease if a building falls as the result of explosion, as under the explosion provision the insurer is liable for damage done by ensuing fire.

**Avoidance of Policy or Excepted Condition.**—Fraud, false swearing, misrepresentation, or the concealment by the insured of a material fact or circumstance will avoid the policy, as will also certain specified acts or conditions, unless otherwise provided by agreement in writing added to or endorsed on it. Under the

1918 edition of the New York standard policy some conditions merely suspend the insurance.

The adjuster's investigation of a claim should include an inquiry into any possible avoidance of the policy or suspension of its cover. If he brings to light facts or circumstances justifying a denial of liability, he is not to commit the company to any action until specifically authorized to do so. In such a case he should make a prompt and explicit report, and await instructions, being careful to avoid doing or saying anything that a court might construe as a waiver, should the claim be contested. In many cases, particularly when there is possibility of further loss, it is well to execute a non-waiver agreement with the insured, and fix the sound value and loss and damage under its protection. While the adjuster should refrain from doing anything that would sustain an allegation of waiver, he should be sure to do everything necessary to conserve the defenses the company may have by collecting the available evidence for use in possible future litigation.

**Entire and Divisible Contracts.**—In some states, the courts hold that a policy is an entire contract, and is void if any warranty or condition has not been complied with, even though it applies to only one item. In other states, the courts take an opposite view, holding that only the item to which the warranty or condition applies is void. In still other states the courts take a middle course, the application of the doctrine of entirety of contract depending on the circumstances of the particular case. As an example of a divisible contract, a dwelling and its furniture might be insured by a life tenant who owned the furniture, but who held only a life estate in the building. If the policy did not contain a provision that he was life tenant only, the item covering the dwelling would be void, but the item covering the furniture would be valid.

**Concealment and Misrepresentation.**—Concealment is always intentional, while misrepresentation may be innocent and the result of mistake. Insurance may be obtained by concealing a material fact, or by misrepresentation of the hazard, location, or desirability of the risk, its ownership, or its value. Misrepresentation of the hazard or location may be made to obtain a lower rate, and misrepresentation of desirability, ownership, or

value to induce the company or agent to accept an offering that would otherwise be refused or insured for a smaller amount. After insurance has been issued the property may be wilfully burned by the insured or may be visited by fire of accidental origin, after which the insured may present a fraudulent claim. Such a claim may be for property which did not exist, or which was not destroyed, or for a value or damage intentionally overstated.

*Misrepresentation of Risk.*—If insurance has been obtained by misrepresentation, the adjuster should ordinarily discover some discrepancy between the risk as he finds it and the description in the policy. Thus, if a resort hotel has been represented and insured as a dwelling, the appearance of the ruins will generally give some idea of the true occupancy, and lead to inquiries by the adjuster which will develop the misrepresentation. Likewise a risk insured as being under fire protection may be found to be outside the protected area, a house insured as occupied may be found vacant, a building insured in the name of an owner may be found in the possession of a mortgagee who has foreclosed, and a stock insured for a large amount may be found to be a collection of unsalable odds and ends. In any of these cases the adjuster should make immediate inquiry into the representations preceding the issuance of the policy. The agent or company representative should be asked for copies of the application or any correspondence antedating the policy, or for a written statement if the negotiations with the insured were by word of mouth. A complete report should be made to the company of any case involving misrepresentation.

*Wilful Burning.*—The intentional burning of insured property by the policyholder is the most serious fraud that can be perpetrated on the insurer. Such an act is criminal as well as fraudulent. If the adjuster suspects the insured of arson, it becomes his duty to turn detective, and do everything possible to bring to light what actually happened. The movements of the suspected incendiary should be checked in every possible manner, and aid should be sought from the civil authorities and from the National Board of Fire Underwriters, which maintains an effective staff of investigators whose sole duty is to investigate cases of suspected arson.

*Fraudulent Claim.*—A fraudulent claim may follow a fire deliberately set, or may be made after an accidental fire when the insured thinks he has an opportunity to make a collection materially greater than his loss. A fraudulent claim may include property which is inventoried in excess of its actual value, or property which never existed. In the first case the remains of property which was actually destroyed or damaged will be used to support the claim; in the second, forged inventories or falsified books will often be presented. The investigation of fraudulent claims calls for a display of the adjuster's real talent. If his suspicion is aroused, he should at once check every item against all the evidence he can collect. The investigation should include a painstaking examination of the debris, the records of purchase or transfer of the property claimed, and the general character and standing of the insured. In many cases it will be desirable to examine the insured under oath after making the investigation and having in hand evidence on which proper questions can be based.

*Unconditional and Sole Ownership.*—In the case of a building the ownership can generally be determined by an examination of real-estate records. The title to real estate passes only by written instrument, unless the owner dies intestate in which event his real property descends by operation of law to his heirs. The interest of an insured who makes claim for loss or damage to a building can therefore be verified by an examination of a real-estate records, unless he claims to hold the property by inheritance from an ancestor who left no will. If he claims by inheritance, his proof of title will be the statements of witnesses who can testify to his relation to the deceased ancestor. In rare cases an owner may hold title by reason of an unrecorded deed. If so he should be asked to produce the deed for examination. The sale of real estate is evidenced not only by deeds, but also by such instruments as contracts for title, bonds for title, lease sale contracts, and contracts of similar purport which may bear other names. While the courts of a few states have held that the only sole and unconditional owner of real estate is the person who holds the legal title, the courts of most of the states have taken the contrary view, declaring that a purchaser in possession

under an executory contract for title is a sole and unconditional owner as contemplated by the policy.

In the case of personal property, possession presupposes ownership, and title passes without the formality of written instruments, though important transfers are frequently evidenced by bills of sale, which are frequently recorded, as are also chattel mortgages. But as only a small percentage of all personal property is the subject of transactions warranting recording, it is only rarely that its ownership is shown by public records. Evidence of purchase, such as bills or checks, actual possession, and oral testimony must generally be accepted as proof of ownership. The purchase and sale of merchandise in the regular channels of trade is usually evidenced by entries on the books of the purchaser and the seller until the retailer is reached as few retail customers keep records of their purchases, other than receipted bills or canceled checks, and the retailer, himself, does not record the names of cash customers. For this reason it is often impossible to establish the ownership of personal property by any written evidence.

**Building on Ground Not Owned by Insured in Fee Simple.**—Proof of compliance or non-compliance with the condition of the policy that an insured building must be on ground owned by the insured in fee simple is furnished by real estate records, leases, or by oral testimony, if the holder of the title to the ground has acquired it by operation of law following the death of an intestate ancestor.

**Foreclosure Proceedings or Notice of Sale by Reason of Mortgage or Trust Deed.**—Notice of foreclosure proceedings or other forced sale is usually given by publication in the county, town, or municipality, or by personal service. The publication records, taken in connection with statements of the mortgagee or holder of the trust deed, will prove or disprove the commencement of the proceedings.

**Change in Interest, Title or Possession.**—The procedure to be followed in establishing ownership will also determine whether or not change in interest or title has taken place. Change of possession often follows a change in interest or title. The language of the policy seems to suggest that one prohibited change of possession is the change of occupants which would be



accompanied by an increase of hazard. At the time this is being written a number of cases are being contested under this provision of the policy, because of the installation by new tenants of illicit stills without admitted notice to the owner.

**Assignment of Policy before Loss.**—If an assignment is written upon the policy it will be discovered by the adjuster at the time the policy is examined. If an assignment of the policy is suspected, but the assignment itself does not appear on the policy, the adjuster can do no more than require of the insured a sworn statement to the effect that the policy has not been assigned. Discovery of an assignment executed before the loss is usually made at the commencement of negotiations of adjustment, as the assignee is generally anxious to be assured that his interest will be preserved, and consequently presents his assignment to the company or the adjuster.

**Other Insurance.**—An examination of the policies is the first step to be taken toward determining whether the condition governing other insurance has been complied with or has been violated. Such an examination, however, is not conclusive as it is quite possible for the insured to have policies which are still in the possession of the agents who issued them, or for certain policies to have been canceled by notice. The insured may also be covered by binders still in the office of the agent. If the insured negotiates for his insurance through a broker, other policies or binders may be in possession of the broker. The adjuster's investigation, in case he suspects other insurance, should include examination of the policies, interviews with agents who may have issued other policies, and an interview with the broker, if the insured employs a broker. Cases are constantly occurring in which, after the loss has been adjusted, apportioned, and paid, a policy will be found which should have contributed. It is customary in such cases for the adjuster to prepare a reapportionment, and also a proof of loss for the omitted policy. The company which issued the omitted policy then reimburses the other companies which have overpaid, and also makes a payment to the insured, if he contributed as a coinsurer under the original apportionment. Other cases occur in which companies make duplicate payments for the same property. In an effort to reduce the number of such cases, the National

Board of Fire Underwriters maintains an extensive organization which receives reports of all losses paid by its members, and correlates these by names and locations, a method which has led to the discovery of many cases of duplicate payments which otherwise would have escaped detection. In a case of other insurance without notice the adjuster should give in his report the names of the agents who issued the various policies or binders, as companies seldom deny liability because of other insurance issued by the same agent.

**Increase of Hazard.**—It would be difficult to enumerate all of the circumstances which might operate to increase the hazard of a given risk. Anything which ordinarily increases the chance of fire in or near the risk is an increase of hazard. Thus, the movement into the premises of such inflammables as gasoline or fireworks is an increase of hazard, as is also the installation of certain manufacturing or other processes. The erection of a nearby structure, the burning of which would ordinarily damage the risk, is an increase of hazard. Only those increases of hazard which are within the control or knowledge of the insured will avoid the policy or suspend the insurance. It is, therefore, necessary for the adjuster, after establishing the fact that an increase of hazard has occurred since the issuance of the policy, to determine whether the insured was cognizant of the increase. It is further necessary, when dealing with losses involving the 1918 edition of the New York standard policy, to establish whether the increase of hazard continued until the time of the loss, as under the terms of this policy the removal of the hazard restores the cover of the insurance. In the case of personal property the courts have held that the placing of an incumbrance upon it is an increase of hazard, on the theory that the owner of incumbered personal property which is insured will not have the same incentive for its preservation as will the owner of non-incumbered property. A decisive test of whether or not an increase of hazard has taken place is an application of the rating schedule, or a consideration of the rules which apply to the risk. If the change of conditions in or adjacent to the risk would entitle the company to a higher rate, or would under the rules require the insured to submit to some written modification of his policy, proof of increased hazard is conclusive. On taking up the adjust-

ment of a loss the adjuster should familiarize himself with the form on the policy, and should compare the circumstances as he finds them, or as they existed immediately before the fire, with those which were contemplated under the policy. If he suspects that an increase of hazard occurred after the issuance of the policy, it becomes his duty to collect such evidence as will prove it, or clear up his suspicion.

**Alterations or Repairs.**—The employment of mechanics for the purpose of altering or repairing property is usually a matter of common knowledge in the neighborhood. Occasionally the property itself offers indisputable evidence that it was undergoing alterations at the time of loss. Building material on the premises, or the presence of burned tools in the ruins, should attract the attention of the adjuster, and lead him to make inquiries which will bring to light what was actually going on at or before the fire.

**Illuminating Gas or Vapor.**—The increasing use of electricity has almost rendered useless this condition of the policy. There are, however, a number of private installations using calcium carbide for the generation of acetylene illuminating gas. The existence of an installation of this sort is usually proved by the debris in the ruins in case the premises are destroyed. If the premises are only damaged, an inspection will reveal the existence of the prohibited apparatus.

**Prohibited Articles.**—The following articles are not to be kept, used, or allowed on the premises: fireworks, Greek fire, phosphorous, explosives, benzine, gasoline, naphtha, or any other petroleum product more inflammable than kerosene, gunpowder in excess of 25 pounds, or more than 5 barrels of kerosene. If these articles are stored in quantity, their existence will become quite evident as fire makes headway. They are all inherently dangerous when exposed to fire, and their storage is prohibited because of their easy ignition and their destructiveness when they exist in quantity. Fireworks and gasoline are the two named articles which most frequently give rise to controversies in connection with adjustments. The firemen, or the bystanders who saw the fire, can usually testify to explosions within the premises. If the adjuster has reason to believe that prohibited articles were being kept, he should investigate the

purchase records, if the subject of insurance is a mercantile or manufacturing establishment, with the idea of establishing the purchase of any prohibited articles. The insured or other occupants should be questioned, and all of the information obtained should be checked against statements made by firemen or witnesses who saw the fire.

**Night Work or Cessation of Operations.**—Violation of the condition of the policy prohibiting night work, or the cessation of operations must usually be established by the testimony of witnesses, although an investigation of the payrolls should show payment for overtime or for night shifts, or no payment whatsoever in case the plant had ceased to operate.

**Vacancy and Unoccupancy.**—If a building is empty of furniture, machinery, merchandise, or other personal property which is normally to be found in it, it is vacant; if it is without human tenants it is unoccupied. The condition of vacancy or unoccupancy must usually be proved by the statements of persons familiar with the property. Occasionally a condition of vacancy will be self-evident. If a vacant building is only partly burned, the adjuster on entering the premises will immediately note the absence of contents, but if the building is totally destroyed it may not be possible to demonstrate from the ruins that it was empty. If vacancy or unoccupancy is suspected, the statement of the insured should be checked against the statements of the neighbors, police, or other persons able to testify.

**Chattel Mortgage.**—As chattel mortgages may be recorded in court houses, or in town or county offices, the existence of a chattel mortgage may often be established by an examination of the chattel mortgage record. Some chattel mortgages, however, are not recorded, and these are at times difficult to detect. Unless the holder of an unrecorded instrument becomes uneasy about his debt, and makes inquiry of the adjuster, the existence of the instrument may never come to light. There will be some cases where the record will show the existence of a chattel mortgage, but where the owner of the chattel will assert that the mortgage was paid before the policy was issued, or before the loss. This will sometimes be a true statement, as the mortgagee may have failed to satisfy the record when his debt was

paid off. In such a case, the adjuster should ask for written proof that the incumbrance has been paid off.

**The Iron Safe Clause.**—The adjuster who works in territory where the iron safe clause is commonly used should adapt his manner of handling books and records to the requirements stated in the clause. The clause is usually worded as follows:

**Warranty to Keep Books and Inventories, and to Produce Them in Case of Loss.**—The following covenant and warranty is hereby made a part of this policy:

1st. The assured will take a complete itemized inventory of stock on hand at least once in each calendar year, and unless such inventory has been taken within twelve calendar months prior to the date of this policy, one shall be taken in detail within 30 days of issuance of this policy, or this policy shall be null and void from such date, and upon demand of the assured the unearned premium from such date shall be returned.

2d. The assured will keep a set of books, which shall clearly and plainly present a complete record of business transacted, including all purchases, sales and shipments, both for cash and credit, from date of inventory, as provided for in first section of this clause, and during the continuance of this policy.

3d. The assured will keep such books and inventory, and also the last preceding inventory, if such has been taken, securely locked in a fire-proof safe at night, and at all times when the building mentioned in this policy is not actually open for business; or, failing in this, the assured will keep such books and inventories in some place not exposed to a fire which would destroy the aforesaid building.

In the event of failure to produce such set of books and inventories for the inspection of this company, this policy shall become null and void, and such failure shall constitute a perpetual bar to any recovery thereon.

The purpose of the iron safe clause is to require the insured to keep and preserve a set of records from which it will be possible at any time to determine the value of the stock insured. The essential records are annual inventories, purchases, and sales. Failure to produce the required record after a fire will operate to bar recovery under the policy. Exception is made when the books are destroyed by fire occurring while the premises are open for business. Under the terms of the clause the insured is allowed a period of 30 days after the issuance of the policy in which to make an itemized inventory, provided one has not been

made within 12 months preceding the issuance of the policy. In the adjustment of losses involving the iron safe clause, the adjuster, therefore, has before him not only the problem of preparing a proper book statement from the records themselves, but also of determining that the required records have been kept and are produced.

As the iron safe clause provides for a forfeiture of the policy if the conditions of the clause are not complied with, it is important for the adjuster who discovers a forfeiture under the clause to avoid making a waiver. The courts have declared that, as a rule, a forfeiture will be waived if the adjuster proceeds with a further examination of the books after he has become aware of the forfeiture. To avoid the charge of waiver, the adjuster should abandon any examination of the books immediately upon learning that a forfeiture has been incurred, and should not return to the examination unless the insured executes a non-waiver agreement. He should keep a record of his contact with the books, so that he may offer the record in confirmation of his testimony, if the loss should later get into litigation. While such a record will not be conclusive evidence, it will have a value in the event of trial, and should be kept. If the books are handled as outlined at the end of this section, and an entry is made on the adjuster's record at each step, all that is possible will have been done to protect the rights of the company in case it should be charged that the adjuster by his acts has waived a forfeiture otherwise enforceable because of the iron safe clause.

When the insured offers the books for examination, the adjuster should prepare a memorandum showing the time and place of the examination, and, the persons present. On this memorandum he should then enter an appropriate description of each book and record as it is produced. If he finds that the books are in order, the memorandum becomes a record of what he must return to the insured. If, during the production of the books, the condition of one tendered indicates that it has not been kept in accordance with requirements, the memorandum of the adjuster should show just what was out of order, *and should show that he then and there refused to go further without reserving the question of forfeiture by non-waiver agreement.* If the insured refused to execute a non-waiver agreement, the

memorandum should show that the adjuster terminated his negotiations with him.

Such a memorandum may appear as follows:

Loss of Georgia Trading and Mercantile Company, Macon, Ga., Fire of  
March 1, 1928

Memorandum covering production of books and records, tendered by the insured in temporary office at #1 Main Street, Macon, Georgia, March 5, 1928, 9.00 a m.

Present: John Doe, President of insured,  
Richard Roe, Secretary,  
Alice Roe, Bookkeeper.

**Books Produced:**

1. Inventory dated Jan. 1, 1928, taken in detail, said by Secretary Roe to be priced at invoice price with no consideration of freight or cash discount. Taken by employees whose names appear on the inventory. Sheets bound in loose-leaf binder. Total of inventory \$42,567 83

2. Cash Book, 502 pages, first entry page 1, Jan. 1, 1927, last entry page 423, line 8.

3. Sales Book, 300 pages, first entry page 1, Feb. 1, 1927, last entry page 210, line 6.

At this point Secretary Roe stated that the Sales Book covering the sales previous to Feb 1, and also all records of business prior to Jan 1, 1928 had been left out of the safe on the night of the fire and were destroyed. I immediately informed him that under such circumstances I would not proceed further unless he and President Doe would enter into a non-waiver agreement and I left a blank agreement for them to talk over when I went out.

*Stock in More than One Building.*—It is well to remember that if a single set of books covers stock kept in two separate buildings, and the books are not kept so as to show separate transactions for each building, it will be impossible to determine the amount of stock in each, if both should be destroyed. If specific insurance covers in each building, the insured in such a case will be unable to enforce a claim. If, however, only one building should be destroyed, the loss could be determined by making a book statement covering both buildings, and preparing an inventory of the stock in the building which did not burn. Deducting the amount of this inventory from the book statement will leave a balance representing the stock destroyed

**Cancellation.**—The policy prescribes how it may be canceled by the insured, and how it may be canceled by the company.

To make cancelation effective either the insured or the company must follow the prescribed steps, unless both agree on some other acceptable course. An effort by either to cancel may be successful or may fail. When such an effort is made on the initiative of one party to the contract, interest or misunderstanding may cause the other to deny its effectiveness. In a number of cases loss occurs shortly after cancelation, or while steps are being taken to effect it. If the facts are in dispute, the adjuster must endeavor to establish them in order to determine whether there is liability or non-liability under the policy. As cancelation ends the right of other companies to demand contribution, they are often the real parties interested in disputing the effectiveness of an effort to cancel. An effort to cancel may be commenced too late, or may be otherwise insufficient to complete cancelation before the time of loss. On the other hand, cancelation may be completed and the insured left without insurance, if the canceled policy was his only protection. He may, if he holds other policies, be left with insufficient insurance, or, as occasionally happens, he may be left unaffected if his other insurance will indemnify him. In like manner, other companies will, in some cases, be unaffected, and in others left with increased liability. In cases of disputed cancelation, therefore, the parties affected may be the insured and the one company, the insured and all companies, or the companies only.

The adjuster investigating a loss occasionally finds conditions, physical or moral, which should be immediately reported to the company, which may direct him to arrange for cancelation pending the adjustment, or to take effect at the time the loss is to be paid.

*Disputes*—Cases of disputed cancelation usually occur when a company has ordered cancelation and loss follows before the policy is returned. The order to cancel may have been handled by the agent in a manner that leaves its effectiveness in doubt. A common cause of disputes is the frequent effort to substitute a policy for the one ordered canceled. Cases of this kind occur when the same agent represents several companies. On receiving an order to cancel, the agent seeks to carry it out, but wishing to keep the insured covered, will write a policy in another company, and mail it to the insured, asking him to return the policy



first written. If the insured returns the first policy, he thereby consents to the cancelation, and the substitution of the other policy is effective. But it sometimes happens that the fire occurs while the insured has both the policies in his possession, or before the second policy reaches him. It is under such circumstances that many of the disputes over cancelation and substitution originate.

Disputes may also arise over the status of a policy which the insured wishes to cancel. If there is an apparent failure of the attempt to communicate with the company or agent before the loss, other companies may dispute the cancelation and demand contribution. When the adjuster encounters any of these situations he should have both agent and insured make definite statements in writing, if possible, so that misunderstandings will be cleared up, and a change of attitude avoided. Because of the relation existing between insurance companies, the adjuster should in all cases report promptly his findings in connection with attempts at cancelation and substitution. It is becoming a general practice to dispose of controversies between companies by arbitration, rather than allow them to become the subject of litigation.

*Investigations*—The first step in the investigation of a cancelation should generally be a discussion with the agent, after which his statement should be recorded by the adjuster, or put in the form of a letter of affidavit. Next, the insured should be questioned, and his statement likewise recorded. In some cases it may be necessary to examine the insured under oath. If the notice of cancelation was given by the agent, the date and hour of its receipt by the insured should be established. If the notice was given by word-of-mouth, or over the telephone, the insured may disagree with the agent as to the date and hour of the conversation. If the notice was given by word-of-mouth in the presence of a witness, the witness should be questioned and his statement recorded. In many cases notice of cancelation is given by registered mail. In such cases the adjuster should make an abstract of the notice, and record the date and signature of the registry return card. In states whose statutes provide special methods of cancelation the investigation should follow the procedure laid down by the statute, while in localities like the

Metropolitan area, in which special customs have grown up and are acquiesced in by all companies; the procedure required by custom should be checked up.

*Reports.*—The adjuster's report on a case of disputed cancellation should state the controversy from both sides, should present his investigation and the evidence collected, and should ordinarily state his conclusion and recommendation. In many cases, however, he will represent companies whose interests are opposed. To avoid embarrassment in these cases the report may well omit conclusions or recommendations.

*Cancellation after Loss.*—In some cases the adjuster will be instructed to arrange for cancellation pending adjustment, as his contact with the insured affords opportunity for serving notice or for effecting cancellation by agreement. There should be no delay in such cases, otherwise there will be severe criticism if a second loss occurs before liability is ended. A written agreement should be entered into with the insured, fixing the date and hour of cancellation, and a signed copy should be sent to the company. If the insured will not execute an agreement, written notice of cancellation and tender of return premium should be made in the presence of a witness or witnesses. Refusal to proceed with the adjustment until an agreement is executed will often overcome objections on the part of the insured.

Quite frequently the adjuster will be instructed to arrange for cancellation on payment of the loss. In a case of doubtful liability which the company elects to compromise rather than contest, it is usual to make the cancellation and surrender of the policy one of the conditions of settlement. It is well, in such a case, to have this stipulated in writing, which may be done by writing across the face of the proof, "This settlement is in compromise, and includes payment of return premium, cancellation and surrender of the policy." At least one adjustment bureau requires its adjusters to report in every case whether payment is to reduce or cancel the policy. This requirement reduces to a minimum misunderstandings and the unpleasantness experienced by insured and agents when drafts are received calling for surrender of unexhausted policies which the insured had expected to retain.

## CHAPTER XII

### REQUIREMENTS IN CASE OF LOSS

**General.**—The requirements in case of loss are stated in the New York standard policy as follows:

The insured shall give immediate notice, in writing, to this company, of any loss or damage, protect the property from further damage, forthwith separate the damaged and undamaged personal property, put it in the best possible order, furnish a complete inventory of the destroyed, damaged and undamaged property, stating the quantity and cost of each article and the amount claimed thereon; and, the insured shall, within sixty days after the fire, unless such time is extended in writing by this company, render to this company a proof of loss, signed and sworn to by the insured, stating the knowledge and belief of the insured as to the following, the time and origin of the fire, the interest of the insured and of all others in the property, the cash value of each item thereof and the amount of loss or damage thereto, all incumbrances thereon, all other contracts of insurance, whether valid or not, covering any of said property, any changes in the title, use, occupation, location, possession or exposures of said property since the issuing of this policy by whom and for what purpose any building herein described and the several parts thereof were occupied at the time of fire; and shall furnish a copy of all the descriptions and schedules in all policies and if required, verified plans and specifications of any building, fixtures or machinery destroyed or damaged. The insured, as often as may be reasonably required, shall exhibit to any person designated by this company all that remains of any property herein described, and submit to examinations under oath by any person named by this company, and subscribe the same; and, as often as may be reasonably required, shall produce for examination all books of account, bills, invoices, and other vouchers, or certified copies thereof, if originals be lost, at such reasonable time and place as may be designated by this company or its representative, and shall permit extracts and copies thereof to be made

**Notice.**—The insured is required to give immediate notice in writing to the company of any loss or damage. When this

is done, the company, if it so desires, will dispatch a representative to make a prompt inspection, and possibly suggest measures to protect the property from further damage, if it is not destroyed. If notice is not given promptly, the company usually comments on the delay when referring the loss to the adjuster. There are times, however, when notice of loss is given without mentioning the date, and the adjuster does not discover the delay until he makes his investigation. When such is the case, the reason for the delay should be determined, and if the interests of the company have been adversely affected, the facts should be reported before the loss is settled.

In the ordinary course of business, written notice of loss is given by the local agent or by some representative of the insured, generally a broker or a public adjuster. Failure to give written notice of loss will, in some states, bar recovery, but the courts have been prone to hold that the provision requiring notice will be waived if the company or its agent has learned of the loss, and made provision for its investigation. The courts have also tended to hold that if notice is given in a reasonable time the requirement of the policy is complied with.

**Protection from Further Damage.**—The insured must protect the property from further damage. The methods he should ordinarily follow to protect a damaged building or contents or property in the open are described in the chapters on the various classes of property. The adjuster is expected to enforce the policy requirement, and while protective measures are usually carried out by the insured, there are times when the adjuster will find it advantageous to direct, or even take over the work.

While the insured is not entitled to collect for further damage which occurs because of his failure to protect the property, as a practical matter it is highly difficult for the adjuster to exclude such damage from consideration in the final settlement. The adjuster should, therefore, endeavor to prevent further damage, so that at least one possibility of controversy will be eliminated from adjustment negotiations.

**Separation, Putting in Order, Inventory.**—The insured is required to separate the damaged and undamaged personal property, put it in the best possible order, and make a complete inventory of it. These requirements provide a routine by

which the true condition of the property will be made evident, and an inventory produced on which the insured can base his claim and the adjuster his offer of settlement. As explained in the chapters on personal property, there are many ways and methods by which the work can be facilitated. These ways and methods should be presented to claimants who try to force an adjustment at a lump sum figure before a separation is made. Some claimants will seek to avoid the labor and time needed to separate property and put it in order, while others will do their utmost to prevent a separation, hoping to keep the property in such a state of disorder that it will present the worst possible appearance, and thus influence the adjuster to make a greater allowance for loss than he would otherwise do. The courts have upheld the requirement of the policy covering separation of damaged and undamaged property and the adjuster need have no hesitancy in demanding that it be carried out.

**Proof of Loss.**—Within 60 days after the fire, unless the time is extended in writing by the company, the insured must file with the company a proof of loss, which is a statement signed and sworn to by the insured, setting out his knowledge and belief as to the following.

1. The time and origin of the fire.
2. The interest of the insured and all others in the property.
3. The cash value of each item thereof, and the amount of loss or damage thereto.
4. All encumbrances thereon.
5. All other contracts of insurance, whether valid or not, covering any of said property.
6. Any changes in the title, use, occupation, location, possession or exposures of said property since the issuing of this policy.
7. By whom, and for what purpose any building described, and the several parts thereof, were occupied at the time of the fire.

With this statement, the insured shall furnish a copy of all the descriptions and schedules in all policies.

While the policy requires the insured to make and file the proof of loss, the adjuster will ordinarily suggest that, if the adjustment can be completed without unusual difficulty or delay, he will himself prepare for the insured's execution a proof

of loss when the claim has been adjusted, or he may suggest that the insured delay making and filing the proof until the adjustment is completed. On the other hand, if the adjuster wishes to commit the insured to a definite state of facts, he may ask that proof of loss be filed without delay. In an extreme case, he may refuse to have any dealings with the insured, and await the filing of the proof of loss. If the insured is to be examined under oath, or an appraisal is to be held, the filing of the proof of loss may be awaited before commencing examination on appraisal to avoid the possibility of a later contention that proof of loss has been waived.

If a proof of loss is filed claiming a greater loss than is later agreed on or established by appraisal, it may be amended to conform to the adjusted or appraised figure. If only one policy is involved, the amendment may be a simply worded letter, signed by the insured, stating that the sound value and the loss and damage have been agreed on at stated figures. If several policies are involved, a new statement and a re-apportionment should be made with a sufficient number of copies to furnish one for each policy.<sup>1</sup> These should be dated, signed by the insured, and afterward attached to the original proofs of loss.

In some states, New York for instance, failure to file a proof of loss within 60 days after the fire is a bar to recovery. In others, however, the courts have held that failure to file within the specified time is not a bar to recovery, but that it will merely operate to delay the bringing of a suit. In New Jersey it is provided by statute that the company must give written notice of its intention to require the filing of proof of loss within 60 days if it intends to declare a forfeiture of the claim on failure to file in time.

**Waiver of Proof of Loss.**—The requirement that the insured render or file a proof of loss may be waived by certain act on the part of the company or its representatives. If the company or the adjuster denies liability, the insured may proceed to sue without filing proof of loss. In some states, the requirement will be waived if the adjuster promises to prepare the proof of loss for the insured. In other states, an attempt to adjust the loss will operate to waive proof of loss, unless the adjuster puts

<sup>1</sup> See p. 365.

the insured on notice that proof of loss will be required. The subject is a technical one, and the adjuster should inform himself of the customs and court decisions of the territory in which he operates.

**Defects and Objections.**—The paper offered by an assured as a proof of loss may omit one or more of the seven required statements. If it does so, it will be defective, and will not be a compliance with the requirement of the policy. But the courts have quite regularly held that, when the insured tenders a defective proof, the insurer will waive any defects unless they are promptly pointed out, so that the insured may have a chance to correct them. If they are pointed out promptly and are not corrected, the insured is in the same position as if he had filed no proof whatsoever. Formerly much attention was devoted to letters<sup>1</sup> rejecting defective proofs, or objecting to those claiming an excessive amount. Present practice is drifting toward less formal correspondence, the tendency being simply to point out any failure to make a required statement, or to pass unanswered a proof of loss claiming more than the adjuster's estimate, unless the adjuster decides to ask for an appraisal or an examination under oath. Ordinarily a proof of loss is nothing more than the *ex parte* statement of the person signing it, and therefore does not fix the amount of the loss. The California policy is probably responsible for a rather wide-spread impression that, if the company holds the insured's proof without objecting to the amount claimed, it will thereafter be estopped from contesting it. Such an estoppel would be enforced in California, as the standard policy of that state provides that the company shall be deemed to have assented to the amount of loss claimed in the insured's proof, unless objection is made within a specified time.

An objection to a proof of loss based on the ground that it does not show in detail how the insured arrives at the figures of sound value and loss and damage will not be sustained by the courts. The insured satisfies the requirement of the policy when he makes under oath the seven statements which go to make up the proof of loss. If the loss involves personal property, detailed information is to be set out on the inventory which the insured must furnish; if it involves a building, the company

<sup>1</sup> See p. 360.

may demand verified plans and specifications. It is best to avoid making objection to a proof of loss unless the objection is one that can be sustained, for if the loss becomes the subject of litigation, the court will be inclined to comment unfavorably on the adjuster's attempt to delay coming to the real issue of the loss by tactics that are not technically correct. The language of the 1886 edition of the New York standard policy was responsible for much confusion on the subject of proof of loss. In that policy it was stated that the right to bring suit did not accrue until the insured had complied with the conditions of the policy, and until 60 days after "satisfactory proof" of the loss had been received by the company. The words, "satisfactory proof," were taken by some to mean the sworn statement of the insured, made in a manner that satisfied the company. These words, however, were taken by others to mean also whatever evidence the insured presented in order to prove that he had suffered loss or to prove the amount of the loss. The latter meaning seems to be more logical, and to be supported by the procedure of the courts. When an insurance case is tried, the insured's proof of loss is usually offered in evidence. The company's attorney usually objects to it if it is offered as evidence to prove the amount of loss, and this objection is usually sustained. The insured's attorney then, as a rule, offers it as evidence that the insured has complied with the policy requirement that he file a proof of loss. When offered for this purpose, the court allows it to go into the record.

**Special Requirements.**—If required by the company the insured must substantiate his claim by furnishing verified plans and specification of any building, fixtures, or machinery damaged or destroyed. This requirement is often used by the adjuster, as, with plans and specification in hand, the ruins or debris left after a serious fire can be checked intelligently, and the replacement cost of property determined. As often as may be reasonably required, the insured must exhibit to any person designated by the company all that remains of any property described in the policy, this requirement securing for the adjuster access to the property and the opportunity of having it examined by persons competent to estimate or determine its value and the damage sustained. In addition, the insured must submit to



examination or examinations under oath and subscribe the same, and produce for examination all books of account, bills invoices, and other vouchers, or certified copies if the originals are lost, at such reasonable time and place as may be designated by the company, and permit extracts and copies thereof to be made. The information to be gained by the use of these requirements is often of great value in verifying or disproving a claim.

**Verified Plans and Specifications.**—Verified plans and specifications may be required for buildings, machinery, or fixtures. The verification must be made by the insured, and the plans and specifications, themselves, must be complete. Notice that plans and specifications will be required should ordinarily be given by letter stating specifically what property is to be covered. The requirement can be enforced as to any property on which claim is made. Plans and specifications are of the greatest value when the claim involves property that has been totally destroyed. In such a case, the adjuster, or the expert working under his directions will have little definite information to work on until plans and specifications are prepared. With accurate plans and specifications in hand, the replacement cost of the property can be determined.

**Exhibit of the Remains of Property.**—The insured, as often as may reasonably be required, must exhibit to any person designated by the company all that remains of any property described in the policy. Because of this requirement the adjuster and the experts in his employ have access to the property and the right to examine it, a right however that must be reasonably used. There are few cases in which it is necessary to make the requirement in writing. In such cases, the notice should name the person to whom the property is to be shown, and should state the date and hour of his visit. Ordinarily, persons sent to examine property are not asked for credentials, if the insured has been told to expect them. If the insured has not been notified, the persons sent should be furnished with a letter of authority.

**Appraisal or Reference.**—The purpose of the appraisal, or reference, provision of the policy is to provide a method for settling disagreements as to the amount of loss without resort to litigation. The provision is therefore, framed so that, following a

disagreement, either the insured or the insurer can demand its use. While disagreement must precede demand, the parties can by mutual agreement institute an appraisal at any time. Appraisals are usually conducted under a written agreement or memorandum naming the appraisers selected, but may be held under oral agreement, as the policy does not provide for a supplementary written contract. When the appraisers are appointed, it becomes their first duty to select an umpire. In several states the laws provide for the selection of an umpire by the court or the insurance commissioner, if the appraisers fail to make a selection within a stated time. After the umpire is selected or appointed, the appraisers together estimate and appraise the loss, submitting any differences to the umpire. In common practice the umpire usually looks over all figures made by both appraisers, although he should confine his examination to those in which there are differences. The insured is legally entitled to a hearing before the appraisers if he asks it, and if refused may plead the refusal in objection to the award. An award signed by any two of the three appointed as appraisers and umpire, fixes the amount of loss. After the award, the insured and the company pay the appraiser respectively selected, and bear equally the charge of the umpire and the expense of the appraisal.

**Demand.**—Neither insured nor company can enforce a demand for an appraisal until after an actual disagreement has occurred. Such a disagreement cannot occur before a bona fide effort has been made by both parties to determine the amount of loss. When demand is made, it should be in writing, should state that disagreement has occurred, should name and identify the appraiser, and should call on the insured to select and present his appraiser. Identification by giving the appraiser's address is sufficient. A demand should not incorporate any qualifications, such as the elimination of certain property from the purview of the appraisal, or the statement that a certain form of agreement or memorandum be signed. A demand may well suggest the signing of an agreement or memorandum as a record, but should not insist on it. Under policies providing for a reference, the demand should nominate three persons from whom the insured is to select one, and should call on the insured to nominate three to be presented by him.

**Adjuster's Contact with the Appraisers.**—Theoretically, appraisers are supposed to proceed with the appraisal on their own initiative, first selecting an umpire, or applying to the court for an appointee if selection fails. Actually, however, the appraisers are seldom free from constant pursuit by the claimant or his representatives, whose efforts are directed toward securing the choice of an umpire favorable to the claimant, and an award in keeping with the claim. It is, therefore, important that the adjuster be prepared to advise with his appointee at any time. He must, however, avoid actual interference with the appraisal, or acts which might be construed as such; otherwise, the insured may plead interference in objection to the award. If the appraisers ask for testimony, the adjuster should present his witnesses and should see that their testimony is fairly heard, and should likewise see that the insured's witnesses are properly examined by the appraisers. The appraisers may ask the parties to examine the witnesses, in which event the adjuster must function as a trial lawyer. While appraisers are authorized to take testimony, the authority is seldom exercised except in New England where appraisal takes the form of reference. If the appraisers do not ask for testimony, the adjuster should simply be alert to see that nothing goes wrong in the procedure. In some cases he may wish to offer testimony. If so, the appraisers and the insured should be notified, and a time and place fixed for the occasion.

Finally the adjuster should see to it that the award is free from errors and is rendered in proper form. If the insurance is divided into several items the award should state separately the appraised sound value and loss on each. An otherwise satisfactory award may be invalidated through neglect to itemize it, and the subsequent refusal of the signers to correct it.

**Record of Appraisal.**—The policy does not require the appraisers to record their proceedings or to sign any writing except the award. For convenience, the various forms of agreements<sup>1</sup> under which appraisals are conducted provide blank affidavits for the appraisers to execute when they qualify, and blank spaces in which to record the selection of the umpire and the figures of the awards. As there are times when an award is

<sup>1</sup> See p 350.

disputed, it is advisable for the company's appraiser to keep a record of his acts from the time he is notified of his selection until the award is rendered. Such a record should include copies of letters nominating umpires, unless the selection is made without delay, and a copy of the appraiser's original estimate showing the items agreed on and those on which there was a difference. A list of differences should be prepared and given to the umpire. Such a record is always useful in case of litigation, errors, or misunderstandings. When an award is to be made, the details on which it is to be based should be checked, and a copy retained in preparation for future contingencies.

**Award.**—When an appraisal is held before the filing of proof of loss, the result of the award can be incorporated in the proof by a statement naming the appraisers and the sound value and loss and damage awarded. But if proof of loss has been filed prior to the rendering of the award, an amendment (or reapportionment sheets if more than one policy is involved), should be prepared for the proof.

**Charges for Appraisal.**—The bill of the company's appraiser should be paid by the adjuster, or approved for payment, if in order, also the bill of the umpire for one-half of his charge, and one-half of any other proper charges connected with the appraisal.

**Options.**—The policy gives the company an option to take all or any part of the articles of personal property on which claim is made, at the agreed or appraised value, also to repair or replace property damaged or destroyed, provided notice of the exercise of such option, is given within 30 days after receipt of proof of loss. The exercise of these options has been discussed in connection with the various kinds of property. It will not be amiss to repeat that they are only to be exercised when to do so will be advantageous to the company.

**Taking of Personal Property.**—The option to take articles of personal property at the agreed or appraised value is responsible for adjustments involving salvage operations. In some cases it can be exercised to the insurer's advantage, principally in cases involving heavily damaged merchandise which appraisers might pronounce worthless or practically so. In these cases, an inventory may be presented by the insured, and the merchandise checked out, or an inventory may be made as the merchandise

is taken out of the premises. When an inventory of the first sort has been checked, errors due to shortages or overages are corrected, and when prices and depreciation are agreed on, proofs of loss are prepared accordingly. In some cases, the sound value of the merchandise is fixed, a sale is held, and the net proceeds are paid direct to the insured, claim being made under the policies for the balance. This method is known as "selling for account of the loss." In other cases, the insured is paid the sound value, the proceeds of the sale going to the company. This is spoken of as "selling for account of the company."

The Underwriters Salvage Company, a corporation owned by the fire insurance companies and operated for their benefit, is the salvor doing the most extensive salvage business in the country. There are a number of independent salvors, some of whom are highly efficient. If the adjuster sells any salvage himself, he will avoid much criticism if he will follow the rule of having all salvage checks made payable to the company, or companies, entitled to the proceeds, instead of to individuals.

**Repairs or Replacement.**—The option to repair or replace is seldom exercised, so seldom that it is best for the adjuster to secure the approval of his company before undertaking repairs or replacements involving more than nominal amounts. In cases where the option is exercised, the adjuster should first agree with the insured on plans and specifications, and after having the work done should require the builder to secure a satisfaction *piece*<sup>1</sup> from the insured before paying the bill or contract price.

Exercise of this option is attended by the risk of a refusal on the part of the insured to accept the repairs as satisfactory. If a refusal materializes, the company will have incurred a repair bill without bringing about an adjustment. In extreme cases, companies have been compelled to pay the repair bill, and in addition make a substantial payment direct to the insured.

**Examination under Oath.**—As often as may reasonably be required, the insured must submit to examination or examinations under oath by any person designated by the company, and subscribe the same. In other words, he must give testimony under oath, and sign the written record of the questions and his answers. Formerly many examinations were conducted by

<sup>1</sup> See p. 364

adjusters, but in recent years examinations have more and more often been referred to lawyers, because of their greater experience in questioning witnesses. When an examination is to be required the insured should be notified in writing,<sup>1</sup> the notice stating a definite time and place for the examination, and also the name of the person designated to conduct it. It is frequently advisable to state that the time and place named may be changed, if, in the option of the insured, they are not reasonable.

An examination may be required for the purpose of developing information, or committing the insured to known facts. The date on which property was acquired and the price paid for it are often subjects of inquiry. Its use while in possession of the insured, and its condition at the time of the loss, are sometimes developed by examination. The history of the insured, and what he has to say about the origin of the fire are, in some cases, worth bringing out. If there are reasons to suspect incendiarism, the insured may be asked to tell what he knows about persons who are thought to be in collusion with him, where they were at the time of the fire, and whether they had possession of keys to the premises. If the loss involves the examination of a set of books, the method of keeping them and the significance of unusual entries may be inquired into. In all such cases, the answers furnish leads which can later be followed and compared with other evidence which will corroborate or contradict them. An insured who makes evasive or contradictory statements when not under oath will be compelled, when later put under examination and held to the record of his answers, to tell a consistent story or make himself ridiculous.

An examination may serve the purpose of committing the insured to facts establishing a breach of the policy contract, or to statements and figures bearing on the amount of loss. When such testimony comes from the insured, it is highly valuable, but it is well to remember that it will not prevent the insured from later changing his story, if he is bold enough to do so. In such a case, however, the record of the examination can be used to contradict him, and his credibility as a witness can be attacked, when he is forced to admit that his testimony on the two occasions is different.

<sup>1</sup> See p. 361.

In many cases, however, an examination is conducted to shake the purpose of an insured who is pressing a fraudulent or exorbitant claim. In these cases the solemnity of the oath, the fear of later contradiction, and the knowledge that each answer will be checked against whatever evidence is available, will often work a change in the insured's attitude. He will be cautioned that the policy provides for avoidance in case of fraud or false swearing, and he will realize that, if he gives false answers and is contradicted, his claim will be still further endangered. His fear or nervousness will be heightened by questions which will indicate that the person asking them knows the real facts of the case. Under such circumstances he may be driven to admissions that will cause him to modify or abandon his claim.

It is rarely safe to commence an examination until after the person who is to conduct it has thoroughly familiarized himself with all information to be had, and can reasonably expect that the insured will be impressed by certain specific questions. An examination conducted at random may occasionally produce a result favorable to the insurer, but as a general rule it is a waste of time.

**Production of Books and Records.**—As often as may reasonably be required, the insured must produce for examination all books of accounts, bills, invoices, and other vouchers or certified copies thereof if originals are lost, at such reasonable time and place as many be designated by the company or its representative, and must permit extracts and copies thereof to be made. By reason of this requirement, the adjuster is enabled to make a thorough examination of books and records kept by the insured, or to have an accountant audit the books and report on them. When a written request is made for the production of books, its language should follow that of the policies, and when the books are received they should be listed and identified, and the insured should be required to state definitely whether all books, invoices, and other vouchers connected with his business, or the property involved, have been produced. Extracts and copies are at present most efficiently made by photostatic and photographic processes, entries which show signs of alterations frequently producing most interesting exhibits when photographed through a magnifying lens.

## CHAPTER XIII

### CONTRIBUTION AND APPORTIONMENT

**General.**—The extent of the application of insurance under a policy, and of the contribution to be made by the company in case of loss or damage, may be provided for by one or more added clauses or conditions. The commonly used clauses which limit liability are the *three-fourths loss clause*, the *three-fourths value clause*, the *percentage coinsurance clause*, the *average clause* (also known as the *reduced rate contribution clause*), the *pro rata distribution clause*, and the *exclusion clause*. *Excess insurance*, which derives its name from the condition embodied in the contract that it covers loss only for the excess above a stipulated figure, is made possible by the use of appropriate language in the form or the clauses of a policy.

Pro rata liability with other insurance is provided by the statement in the policy that "this company shall not be liable for a greater proportion of any loss or damage than the amount hereby insured shall bear to the whole insurance covering the property, whether valid or not and whether collectible or not." The adjuster, therefore, after fixing the sound value and the amount of loss, must also determine the amount for which the policy is liable and, when several policies are involved, the amount for which each is liable. The determination of the individual amounts for which each of several policies insuring the same property is liable, is termed *apportionment*. When the policies are *concurrent*, that is, are alike in their description of property and its location, and in their added clauses, each policy is liable for the same percentage of the loss as the amount thereby insured bears to the total amount insured under all policies. Policies, however, may be *specific*, *blanket*, or *floating*, according to their description of property and location, and frequently the same property will be described in two or more policies, one specific, the other, or others, blanket or floating, the descriptions and



locations being such that in case of loss a different sound value and a different loss must be determined under each policy. In such a case the policies are *non-concurrent*, and the apportionment is not pro rata according to amounts insured. The situation may be further complicated by a difference in the clauses added to the policies. Attempts to solve the problems that arise when losses are to be apportioned among non-concurrent policies have resulted in a number of rules with which the adjuster should be familiar. After a discussion of added clauses, and of specific, blanket, and floating insurance, the rules of apportionment will be discussed and illustrated.

**Added Clauses.**—The clauses discussed in this section limit the liability of the company under certain specific conditions. They come to the adjuster's attention when he examines policies, and should be listed in his notes, unless he takes for his file a full copy of the forms containing the clauses. When several policies are involved, and are all concurrent, a copy of one form is sufficient, but if the policies are non-concurrent, a copy of each form will be necessary.

After the adjuster has established the sound value and the amount of loss, he should explain to the insured the operation of any clause which reduces the amount to be paid, and should embody a recital of its operation in the statement of loss or in the report sent to the company. If circumstances are such that the amount to be paid is not reduced by the added clauses, the adjuster should note this fact in the statement or in the report. No attempt will be made in this chapter to cover the operation of all added clauses. Those whose operations are covered have been selected because of their frequent use, and because they incorporate the principles which underly the others.

#### *Three-fourths Loss Clause.*

It is understood and agreed to be a condition of this insurance, that, in the event of loss or damage under this policy, this company shall not be liable for an amount greater than three-fourths of such loss (not exceeding the sum insured) and, in the event of additional insurance permitted hereon, then this company shall not be liable for an amount greater than its proportion of three-fourths of such loss; in both events the other one-fourth to be borne by the insured.

The purpose of this clause is to require the insured to stand one-fourth of any loss he may sustain. The operation of the clause will reduce the insurer's payment if the loss sustained is less than  $133\frac{1}{3}$  per cent of the insurance, but will not reduce it if the loss is equal to or greater than this percentage. The presence and effect of the clause should be noted in the statement of loss substantially as follows:

**Example 1**

Item 1, \$2,000 insurance	
Agreed sound value . . . . .	\$3,000
Agreed loss . . . . .	\$800
Less one-fourth for three-fourths loss clause . . . . .	\$200
Insurance, \$2,000 pays . . . . .	\$600

**Example 2**

Item 1, \$2,000 insurance.	
Agreed sound value . . . . .	\$3,000
Agreed loss . . . . .	\$3,000
Insurance \$2,000 pays . . . . .	\$2,000

Operation of three-fourths loss clause does not reduce amount to be paid (Insurance is less than three-fourths of loss.)

**Three-fourths Value Clause.**

It is understood and agreed to be a condition of this insurance that, in the event of loss or damage by fire to the property insured under this policy, this company shall not be liable for an amount greater than three-fourths of the actual cash value of each item of property insured by this policy (not exceeding the amount insured on each such item) at the time immediately preceding such loss or damage; and in the event of additional insurance—if any is permitted hereon—then this company shall be liable for its proportion only of three-fourths of such cash value of each item insured at the time of the fire not exceeding the amount insured on each such item.

The purpose of this clause is to require the insured to risk one-fourth of the value of his property. The operation of the clause will reduce the insurer's payment if the property is insured for more than three-fourths of its value, and the loss exceeds such three-fourths, otherwise it will not. The presence and effect of the clause should be noted in the statement of loss substantially as follows:

### Example 1

Item 1. \$2,000 insurance.

Agreed sound value	\$2,500
Agreed loss	\$2,275
Less one-fourth for three-fourth value clause	625
Insurance \$2,000 pays	<u>\$1,875</u>

### Example 2

Item 1, \$2,000 insurance.

Agreed sound value	. . . . .	\$2,500
Agreed loss	. . . . .	\$800
Insurance \$2,000 pays	. . . . .	\$800
Operation of three-fourths value clause does not reduce amount to be paid. (Loss is less than three-fourths of value )		

*Coininsurance Clause.*

It is a part of the consideration of this policy, and the basis upon which the rate of premium is fixed, that the insured shall at all times maintain insurance on each item of property insured by this policy of not less than. . . . per cent of the actual cash value thereof, and that, failing so to do, the insured shall be an insurer to the extent of such deficit, and in that event shall bear his, her or their proportion of any loss.

The purpose of this clause is to require the insured to maintain insurance equal to a stipulated percentage of the value of his property or to become a coinsurer and bear a proportionate part of any loss. The operation of the clause will reduce the insurer's payment when both the amount of the insurance and the amount of the loss are less than the stipulated percentage of the value of the property. The presence and effect of the clause should be noted in the statement of loss substantially as follows:

### Example 1

Item 1, \$5,000 insurance.

Agreed sound value . . . . .	\$7,500	
Agreed loss . . . . .	\$5,000	
Insurance required by 80 per cent co-		
insurance clause . . . . .	6,000 pays	\$5,000 00
Insured a contributor . . . . .	1,000 contributes	833 33
Insurance carried . . . . .	\$5,000 pays	\$4,166 67

**Example 2**

Item 1, \$5,000 insurance.

Agreed sound value..... \$6,000

Agreed loss ..... \$4,000

Insurance, \$5,000, pays .... \$4,000

Operation of 80 per cent co-insurance clause does not reduce amount to be paid. (Insurance exceeds 80 per cent of value)

**Example 3**

Item 1, \$5,000 insurance.

Agreed sound value . . . . . \$7,500

Agreed loss ..... \$6,500

Insurance \$5,000 pays . . . . . \$5,000

Operation of 80 per cent co-insurance clause does not reduce amount to be paid. (Loss exceeds 80 per cent of value.)

*Average Clause or Reduced Rate Contribution Clause.*

This company shall not be liable for a greater proportion of any loss or damage to the property described herein than the sum hereby insured bears to . . . per cent of the actual cash value of said property at the time such loss shall happen, nor for more than the proportion which this policy bears to the total insurance thereon.

The purpose of this clause is to limit the insurer's liability to a proportion of the loss no greater than that which the amount insured bears to a stipulated percentage of the property. Like the coinsurance clause it will reduce payment when both the amount of the insurance and the amount of the loss are less than the stipulated percentage of the value of the property. The presence and effect of the clause should be noted in the statement of loss substantially as follows:

**Example 1**

Item 1, \$5,000 insurance.

Agreed sound value ..... \$7,500

Agreed loss . . . . . \$5,000

Under operation of 80 per cent average clause insurance pays  
5,000/6,000 of \$5,000, or . . . \$4,166 66**Example 2**

Item 1, \$5,000 insurance.

Agreed sound value ..... \$6,000

Agreed loss . . . . . \$4,500

Insurance \$5,000 pays . . . . . \$4,500

Operation of 80 per cent average clause does not reduce amount to be paid (Insurance exceeds 80 per cent of value.)

## Example 3

Item 1, \$5,000 insurance	
Agreed sound value . . . . .	\$7,500
Agreed loss . . . . .	\$6,500
Insurance \$5,000 pays . . . . .	\$5,000
Operation of 80 per cent average clause does not reduce amount to be paid.	
(Loss exceeds 80 per cent of value)	

*Coinurance Clause and Average Clause Contrasted.*—When the several policies covering the property are concurrent, the payment will be the same under a coinsurance clause as under an average clause of the same percentage. But when the policies are non-concurrent, the payments to be made under coinsurance requirements may be quite different from those to be made under the condition of average. The best illustration of the different operation of the two clauses occurs in the case of blanket and specific insurance, when the loss is confined to property covered only by the blanket insurance. Assume two buildings, *A* and *B*, *A* being insured specifically for \$10,000, and both *A* and *B* being covered under a blanket policy for \$20,000. Sound values are, *A*, \$15,000, *B*, \$15,000. Loss is confined to *B*, and amounts to \$5,000.

The essential difference between the two clauses is that the coinsurance clause provides for contribution by the insured in case of insufficient insurance, but fails to specify that the insurance must be contributing insurance, while the average clause fixes a limit of liability for the policy based on the value of the property itself.

## Example 1

## 100 Per Cent Coinsurance Clause

	Sound Value	Loss
Building <i>A</i> . . . . .	\$15,000	Nil
Building <i>B</i> . . . . .	15,000	\$5,000
	<u>\$30,000</u>	<u>\$5,000</u>
Specific insurance . . . . .	\$10,000	
Blanket insurance . . . . .	20,000 ( <i>A</i> and <i>B</i> )	
	<u>\$30,000</u>	
Insurance required, 100 per cent of sound value . . . . .	\$30,000	
Insurance carried, specific and blanket . . . . .	\$30,000	
Blanket insurance pays . . . . .		\$ 5,000

(As the coinsurance requirement is fulfilled, the entire loss is borne by the blanket insurance, although it receives no contribution from the specific insurance.)

### Example 2

#### 100 Per Cent Average Clause

	Sound Value Loss	
Building A . . . . .	\$15,000	Nil
Building B. . . . .	15,000	\$5,000
	<u>\$30,000</u>	<u>\$5,000</u>
Specific insurance . . . . .		\$10,000
Blanket insurance . . . . .		<u>\$20,000</u>
		\$30,000
Blanket Insurance Pays 20,000/30,000 of \$5,000 . . . . .		\$3,333 33

(The existence of other insurance does not change the basis of average, in this case 100 per cent of the sound value of the property, and as the other insurance does not contribute with the blanket insurance its existence is not taken into consideration in determining the liability of the blanket insurance.)

### *Pro Rata Distribution Clause or Distribution Average Clause.*

It is a condition of this contract that the amount insured hereunder shall attach in or on each building, shed and other structure and/or place in that proportion of the amount hereby insured that the value of the property covered by this policy in or on each said building, shed and other structure and/or place shall bear to the value of all the property described herein.

### Example 1

\$10,000 insurance		
Agreed sound value, all locations.....	\$12,000	
Sound value at location of loss. . . . .	\$5,000	
Loss and damage. . . . .		\$5,000 00
Insurance attaching 5,000/12,000 of \$10,000 . . . . .		\$4,166 66
Payment to be made.....		\$4,166 66

### Example 2

\$10,000 insurance		
Agreed sound value, all locations....	\$12,000	
Sound value at location of loss . . . . .		\$5,000
Loss and damage . . . . .		2,500
Operation of pro rata distribution clause does not reduce amount to be paid.		

## Example 3

\$10,000 insurance		
Agreed sound value, all locations	.. . . .	\$9,000
Sound value at location of loss	. . . . .	\$3,000
Loss and damage	. . . . .	3,000
Operation of pro rata distribution clause does not reduce amount to be paid		

If several locations are involved, the sound value and loss at each should be ascertained, after which the operation of the clause should be worked out.

*100 Per Cent Average Clause and Pro Rata Clause Distribution Contrasted.*—While the 100 per cent average clause effects a pro rata distribution of insurance, the pro rata distribution clause does not require 100 per cent insurance to collect in full certain losses which may occur. As the examples already given under the latter indicate, if the loss at one or more locations is less than the insurance attaching, the loss can be collected in full. Under the 100 per cent average clause no loss can be collected in full unless there is 100 per cent insurance.

*Exclusion Clause.*—This policy does not cover property specifically insured.

The purpose of this clause is to relieve the policy from contribution with specific insurance. The clause is not ordinarily noted in the statement of loss, but is often referred to in the adjuster's letter reporting on the adjustment, usually by the statement that certain property in the premises was specifically insured, and that the loss on such property was borne wholly by the specific insurance.

*Specific Insurance.*—The term specific as applied to insurance is, unfortunately, relative rather than absolute, there being no authoritative definition of specific insurance. A policy covering a single building, a single machine, or a single bale or lot of merchandise is certainly specific. But by common usage a policy which covers in a single item all of the machinery, or all of the stock in given premises, is spoken of as specific, in contrast to one that covers in a single item both machinery and stock. Insurance covering at one location is also considered specific in contrast to insurance covering at several, as is also insurance covering a single ownership, that of a bailor, for instance, in

contrast to insurance containing the trust and commission clause, and covering in the name of the bailee the property of several bailors. Under a specific policy the sound value of the property covered must be determined separately if other insurance of broader cover is also involved.

✓**Blanket Insurance.**—When two or more items of property ordinarily insured separately, are insured under a single item, or when property at two or more locations is so insured, the insurance is termed blanket insurance. As the word blanket indicates, the insurance covers the entire property, and if the policy does not contain average or coinsurance clauses it can be called upon to cover wherever protection is needed. In adjusting a loss under blanket insurance, the sound value of all property covered must be determined, if an average, a coinsurance, or a pro rata distribution clause is used, even though the loss may be confined to a part of the property that is also covered by specific insurance.

✓**Floating Insurance.**—Floating insurance covers the property described at any place within the limits specified. Floaters are sometimes described as *general or limited* floaters according to the breadth or narrowness of the cover, a general floater covering at any location within an area, and a limited floater being restricted to specific locations within the area. The terms general and limited are, of course, relative. In some floaters it is stipulated that liability in any one location is limited to a given amount, in others there is no such stipulation. The sound value under a floater includes all insured property within the geographic limits of the floater at the time of loss.

**Excess Insurance.**—Excess insurance covers only such loss as may be in excess of a given figure. It is written under varying forms, and may be contributing or non-contributing. It is sometimes effected by attaching an excess provision to an otherwise specific, blanket, or floating policy. Under some excess policies there can be no collection unless the loss is such that the specific insurance is exhausted. In some excess policies of this kind, the word "exhausted" is left undefined. In others it is defined as the payment of the full amount of the specific insurance, while in still others it is defined as the payment by the specific insurance of the amounts determined by the average or coinsurance clauses in the specific policies.



**Apportionment.**—A policy may insure a single item of property, or it may insure several. Two or more policies insuring the same property may cover it under one item or under more than one. If there are two or more items, they may be the same in all policies, or there may be some items covered by all, and others not covered by one or more of the policies. Under concurrent policies a pro rata apportionment is made, and, when necessary, divided according to items.

Policies, however, may be non-concurrent. Non-concurrencies of description may result in one policy covering in a single item more kinds of property, or property at more locations, than another policy covers. This is illustrated by those cases where blanket and specific policies are involved. Non-concurrencies are divided into *simple non-concurrencies* and *compound non-concurrencies*. Simple non-concurrencies exist when there is blanket insurance and a single item of specific insurance; compound non-concurrencies, when there are two or more specifically insured items, each of which is also covered by blanket insurance.

For simple non-concurrencies, when the policies are not subject to coinsurance or average conditions, there are two well-settled rules of apportionment, the Page Rule and the Cromie Rule, discussed in the section immediately following. But for simple non-concurrencies involving average or coinsurance clauses, and for compound non-concurrencies, there are no universally accepted rules, although the best minds in the business have attempted their formulation for more than half a century. The courts of several states have handed down conflicting decisions, and different customs have been followed in different sections of the country. There is some conflict of opinion as to the authority of the adjuster in making an apportionment when policies are non-concurrent. Opinion, however, seems to be settling toward the idea that he is authorized to do so.

In an effort to make apportionments uniform throughout the country, the National Board of Fire Underwriters has undertaken to prepare a set of rules to cover the ordinary cases of non-concurrency. When these are completed and accepted, the position of the adjuster will be somewhat more comfortable.

**Simple Non-concurrencies.**—The apportionment in case of a simple non-concurrency, when the policies are not subject to

coinsurance or average conditions, will be made according to the Page Rule if the loss is confined to property on which both the specific and blanket insurance cover. But if there is additional loss on property covered by the blanket policy only, the apportionment will ordinarily be made according to the Cromie Rule.

In Connecticut and in New Jersey, however, there have been court decisions which are responsible for the use of the Gradual Reduction Rule<sup>1</sup> in losses that elsewhere are apportioned according to the Cromie Rule. Both the Page and the Cromie Rules are sometimes used when policies containing average or coinsurance clauses are involved, but should be limited to cases in which the requirements of average or coinsurance are satisfied by sufficient insurance.

**Compound Non-concurrencies.**—The rules for the apportionment of losses under non-concurrent policies, which have been evolved from time to time in an effort to satisfy changing ideas as well as changing policy conditions, are the following:

The Albany Rule, now practically obsolete.

✓ The Reading Rule, also known as the Massachusetts Rule, and as the Blake Rule.

✓ The Kinne Rule, also known as the Griswold Rule and the Finn Rule.

The Rice Rule.

✓ The Gradual Reduction Rule, which includes in its variations the Connecticut, (or Schmaelzle Rule), the Western Rule, and the Chicago Rule.

The Geisse Rule.

The Morristown Rule.

✓ The Limit of Liability Rule.

On the Pacific Coast, the Kinne Rule has been in use since its adoption by the Fire Underwriters' Association of the Pacific in 1885. It was reaffirmed by written agreement between the companies in 1910. The Gradual Reduction Rule is used in Connecticut, New Jersey, and in the states covered by the operations of the Western Adjustment and Inspection Company. The Reading Rule is used in Massachusetts, Maine, Vermont, and Pennsylvania. The Limit of Liability Rule is used in Greater

<sup>1</sup> See p. 272.

New York by the Committee on Losses and Adjustment of the New York Board of Fire Underwriters. The Rice, Geisse, and Morristown Rules have apparently been abandoned. No attempt is made to state which rules are acceptable in other states or places, or to contrast the merits and defects of the several rules. The adjuster should inform himself of the customary method of making apportionments in the territory he covers, and should refrain from innovations, unless authorized by the companies to make them. All unusual cases should be submitted to the companies interested. The report submitting a case should embody copies of all forms that are not standard, unless the question involved can be presented clearly by careful abstracts of the forms.

**Page Rule.**—The Page Rule may be stated as follows:

The full amount of the blanket insurance contributes with the full amount of the specific insurance to pay the loss.

#### Example

Blanket insurance covering stock and machinery.. . . .	\$2,000
Specific insurance covering stock. . . . .	1,000
Loss on stock only .. . . .	750
Blanket insurance .. . . .	\$2,000 pays. \$500
Specific insurance .. . . .	1,000 pays 250
	<hr/>
	\$3,000 \$750

✓ **Cromie Rule.**—The Cromie Rule may be stated as follows:

The blanket insurance first pays the loss on property which it alone covers, and thereafter its remainder contributes with the specific insurance on the property covered by both.

#### Example

Blanket insurance covering stock and machinery .. . . .	\$2,000
Specific insurance covering machinery . . . . .	1,000
Loss	<hr/>
	\$3,000
Stock. . . . .	\$1,000
Machinery .. . . .	1,000
	<hr/>
	\$2,000

Apportionment					
	Stock		Machinery		Total
	Insures	Pays	Insures	Pays	pay- ment
Blanket insurance	\$2,000	\$1000	\$1,000	\$500	\$1,500
Specific insurance			1,000	500	500
	\$2,000	\$1000	\$2,000	\$1000	\$2,000

**Albany Rule.**—While the Albany Rule has become obsolete, its principle is employed in the preliminary steps of two of the other rules, and should therefore be known to the adjuster. The rule may be stated as follows:

The full amount of the blanket insurance contributes with the full amount of the specific insurance on each item on which there is a loss.

#### Example

	Loss	
Item 1. Stock . . . . .	\$100	\$1,000 specific insurance
Item 2. Fixtures . . . . .	500	1,000 specific insurance
		2,000 blanket insurance
	<u>\$600</u>	<u>\$4,000</u>

#### Apportionment

Specific insurance on stock..	.....	\$1,000	\$ 33 33	
Blanket insurance	. . . . .	2,000	66 67	\$ 66 67
		<u>\$3,000</u>	<u>\$100 00</u>	
Specific insurance on fixtures.	. . . . .	\$1,000	\$166.67	
Blanket insurance	.....	2,000	333 33	\$333 33
		<u>\$3,000</u>	<u>\$500 00</u>	<u>\$400 00</u>

**Reading Rule.**—The Reading Rule is also known as the Blake Rule, and as the Massachusetts Rule. It may be stated as follows:

The blanket policy is divided among the several items of property covered, in that proportion which the value of each bears to the value of all, and the amount thus allotted to each item contributes with the specific insurance on that item.

Example			
	Value	Loss	Insurance
Building { A . . . . .	\$1,000	\$100	\$1,000 specific
B . . . . .	1,000	500	1,000 specific
C . . . . .	2,000		
			2,000 blanket
	\$4,000	\$600	\$4,000

## Division of Blanket Insurance

	Value	Blanket Insurance
Building { A . . . . .	\$1,000	\$ 500
B . . . . .	1,000	500
C . . . . .	2,000	1,000
	\$4,000	\$2,000

## Apportionment

	Building A		Building B		Building C		Total	
	In-sures	Pays	In-sures	Pays	In-sures	Pays	In-sures	Pays
Specific . .	\$1,000	\$ 66 67	\$	\$	\$		\$1,000	\$ 66 67
Specific . .			1,000	333 33			1,000	333 33
Blanket . .	500	33 33	500	166 67	1,000		2,000	200.00
	\$1,500	\$100 00	\$1,500	\$500 00	\$1,000		\$4,000	\$600 00

*Modified Reading Rule.*—The Reading Rule has two modifications:

(A) The blanket policy is divided among the several items of property covered and *involved in loss*, in that proportion which the value of each so involved bears to the value of all involved, and the amount thus allotted to each item contributes with the specific insurance on that item.

## Example

		Value	Loss	
Building	A . . . . .	\$1,000	\$100	\$1,000 specific insurance
	B . . . . .	1,000	500	1,000 specific insurance
	C . . . . .	2,000		2,000 blanket insurance
		\$4,000	\$600	\$4,000

## Division of Blanket Insurance

		Value	Blanket Insurance
Building	A . . . . .	\$1,000	\$1,000
	B . . . . .	1,000	1,000
		\$2,000	\$2,000

## Apportionment

	Building A		Building B		Total	
	Insures	Pays	Insures	Pays	Insures	Pays
Specific . . . . .	\$1,000	\$ 50	\$	\$	\$1,000	\$ 50
Specific . . . . .			1,000	250	1,000	250
Blanket . . . . .	1,000	50	1,000	250	2,000	300
	\$2,000	\$100	\$2,000	\$500	\$4,000	\$600

(B) The blanket policy is divided among the several items of property covered, whether involved in loss or not, in such proportion that, when the specific insurance on each item is added to the portion of the blanket insurance allotted to that item, the total insurance on each item will, as nearly as possible, be the same percentage of its value.

The rule is more often stated in the following shorter wording: The blanket policy is divided among all classes of property, whether involved in loss or not, so that as nearly as possible the ratio of insurance to value will be the same on each class as on all together.

## Example

		Value	Loss	Insurance
Building	A . . .	\$ 3,000	\$ 100	\$1,000 specific
	B . . .	3,000	500	1,000 specific
	C . . .	4,000	400	1,000 specific
				2,000 blanket
		\$10,000	\$1,000	\$5,000

## Division of Blanket Insurance

Total insurance . . . . .	\$5,000
Total value . . . . .	\$10,000
	= 50 per cent

		Value	50 per cent	Specific insurance	Blanket insurance
Building	A. . . . .	\$ 3,000	\$1,500	\$1,000	\$ 500
	B . . . . .	3,000	1,500	1,000	500
	C . . . . .	4,000	2,000	1,000	1,000
		\$10,000	\$5,000	\$3,000	\$2,000

## Apportionment

	Building A		Building B		Building C		Total	
	In-sures	Pays	In-sures	Pays	In-sures	Pays	In-sures	Pays
Specific ..	\$1,000	\$ 66 67	.. .	.. .	.. .	.. .	\$1,000	\$ 66 67
Specific ..	....	....	\$1,000	\$333 33	.. .	.. .	1,000	333 33
Specific ..	.....	.....	.. .	.. .	\$1,000	\$ 200	1,000	200 00
Blanket .	500	33 33	500	166 67	1,000	200	2,000	400 00
	\$1,500	\$100 00	\$1,500	\$500 00	\$2,000	\$400	\$5,000	\$1,000 00

**The Rice Rule.**—The Rice Rule is no longer in general use. It may be stated as follows:

The full amount of the blanket insurance is added to each item of specific insurance, thus establishing a theoretical total amount of insurance for each specific item. The loss on each item is then subtracted from the theoretical insurance on each item, and a theoretical over-insurance on each item thus obtained. The actual aggregate over-insurance is then apportioned according to the theoretical over-insurance, and the results are

added to the respective losses. Thus a total insurance on each item is found, and the blanket insurance is divided so as to reach these totals. The loss is then apportioned.

### Example

	Value	Loss	
Item 1. Stock . . .	\$ 7,931 54	\$4,600	\$ 6,000 (A) specific insurance
Item 2. Fixtures...	5,552 00	4,164	3,000 (B) specific insurance
			2,000 (C) blanket insurance
	<u>\$13,483.54</u>	<u>\$8,764</u>	<u>\$11,000</u>

### Theoretical Insurance

Stock		Fixtures	
Blanket insurance . . . . .	\$2,000	Blanket insurance . . . . .	\$2,000
Specific insurance . . . . .	<u>6,000</u>	Specific insurance . . . . .	<u>3,000</u>
Theoretical insurance . . . . .	\$8,000	Theoretical insurance . . . . .	\$5,000
Loss . . . . .	<u>4,600</u>	Loss . . . . .	<u>4,164</u>
Theoretical over-insurance..	\$3,400	Theoretical over-insurance	\$836
Total actual insurance . . . . .			\$11,000
Actual loss . . . . .			<u>8,764</u>
Actual over-insurance . . . . .			\$ 2,236

### Apportionment of Over-insurance

Theoretical		Actual	
Stock . . . . .	\$3,400	Stock . . . . .	\$1,794 71
Fixtures . . . . .	<u>836</u>	Fixtures . . . . .	<u>441 29</u>
	\$4,236		\$2,236.00

### Determination of Contributing Insurance

Stock		Fixtures	
Loss . . . . .	\$4,600.00	Loss . . . . .	\$4,164 00
Actual over-insurance..	<u>1,794.71</u>	Actual over-insurance ..	<u>441 29</u>
	\$6,394.71		\$4,605 29

### Apportionment

		Stock		Fixtures		Total	
		Insures	Pays	Insures	Pays	Insures	Pays
Specific	A	\$6,000 00	\$4,316 07	.	.. . . .	\$ 6,000	\$4,316 07
	B	.....	. . . . .	\$3,000 00	\$2,712 53	3,000	2,712 53
	C	394 71	283 93	1,605.29	1,451 47	2,000	1,735 40
Blanket		<u>\$6,394 71</u>	<u>\$4,600 00</u>	<u>\$4,605 29</u>	<u>\$4,164 00</u>	<u>\$11,000</u>	<u>\$8,764 00</u>



**Kinne Rule.**—The Kinne Rule, as adopted by the Fire Underwriters' Association of the Pacific in 1885, and reaffirmed by written agreement between the companies in 1910, is mandatory in Pacific Coast territory. The rule as it appears in the written agreement is set out in full:

*Principle.*—The principle governing all apportionments of non-concurrent policies is that general and specific insurance must be regarded as coinsurance; and general insurance must float over and contribute to loss on all subjects under its protection, in the proportions of the respective losses thereon, until the assured is indemnified, or the policy exhausted.

*Steps to Be Taken.*—The correct method of applying the principle has been formulated in the following:

*First.*—Ascertain the non-concurrence of the various policies and classify the various items covered into as many groups as the non-concurrence demands, whether of property, location or ownership.

*Second.*—Ascertain the loss on such groups of items separately.

*Third.*—If but a single group is found with a loss upon it, the amounts of all policies covering the group contribute pro rata.

*Fourth.*—If more than one group has sustained a loss, and such loss on one or more groups be equal to or greater than the total of general and specific insurance thereon, then let the whole amounts of such insurance apply to the payment of loss on such groups.

*Fifth.*—*Apportionment.*—If more than one group has sustained a loss, and such loss be less than the totals of unexhausted general and specific insurance thereon, then apportion the amount of each policy covering on such groups generally, to cover specifically on such groups in the same proportion that the sum of the losses on such groups bears to the loss on each individual group. (See Note.)

(NOTE.—When a group is covered by one or more general policies, it would be well to see at once if an apportionment as above on that group would equal the loss, as, in case it will not, it will show without further calculation that the whole amount of loss on such group must be met by such policies pro rata, and the remainder only apportioned. In such cases, carrying out Step 6 simply accomplishes by a longer process what here is indicated.)

*Sixth.*—*Reapportionment.*—If the loss on any group or groups is then found to be greater than the sum of the now specific insurance as apportioned, add sufficient to such specific insurances to make up the loss on the group taking the amount of the deficiency from the now specific insurances of the heretofore general amounts previously covering the new deficient groups, which cover on groups having an excess of insur-

ance, in the proportion that their sums bear to the individual amounts.

(NOTE.—Very rarely are new deficiencies created by the reapportionment, but if so, simply repeat Step 6 )

*Seventh*—Cause the amounts of all the now specific insurances to severally contribute pro rata to pay the partial losses, and it will be found that the whole scheme has resulted in the claimant being fully indemnified in accordance with the various contracts and on a basis which preserves the equities between the companies throughout.

To simplify matters the following formula is given in order that time may be saved, when no analysis of the principle is desired or argument needed.

*Apportionment*.—General policies covering on more than one group should be divided into specific sums as follows:

*Formula*.—(See Step 5.)

1. As . . . . . the sum of the losses on such groups.
2. Is to . . . . . the individual loss on each of them.
3. So is . . . . . the whole amount of policy so covering.
4. To . . . . . the specific amount to apply on each group.

*Method of Computation*.—Divide No. 3 by No. 1 to get per cent, and then multiply by No. 2 (seriatim) to get No. 4.

*Reapportionment*.—Should there not be enough insurance on a group or groups to pay the loss, and some groups have more than enough, a second reapportionment is necessary, though ordinarily but one is needed.

*Formula*.—(See Step 6 )

1. As . . . . . the sum of specific insurance (with surplus).
2. Is to . . . . . the individual amount of each of them.
3. So is . . . . . the sum to be provided.
4. To . . . . . the amount each group will contribute

*Method of Computation*.—Divide No. 3 by No. 1 to get per cent, and then multiply by No. 2 (seriatim) to get No. 4.

Repeat Step 6 when necessary.

The deficient groups can now be fortified by the exact amounts needed to pay the losses, and the problem is at once narrowed down to an ordinary mathematical one.

*Contribution*—All groups have now specific insurance on them, and will pay the losses pro rata, whereby absolute indemnity to the assured, and equitable contributions by the companies are attained on the proper and unchanging principle of loss to loss.

It is first necessary to separate the property destroyed or damaged into as many groups as the non-concurrence of the various policies

demands. The non-concurrency may be because different classes of property are covered by the insurance, or the property may be in different locations, or there may be different interests. It then becomes necessary to ascertain the amount of loss on each item of property destroyed or damaged which is now the subject of specific insurance.

*Example of Apportionment of Insurance under Kinne Rule.<sup>1</sup>*

FACTS	
Insurance	
Company A, general merchandise . . . . .	\$ 5,000
Company B, general merchandise . . . . .	6,000
Company C, boots and shoes . . . . .	2,500
teas and coffees . . . . .	3,000
hardware . . . . .	2,000
	<u>\$18,500</u>
Losses, boots and shoes . . . . .	\$ 3,000
teas and coffees . . . . .	4,000
hardware . . . . .	8,000
	<u>\$15,000</u>

FIRST APPORTIONMENT OF INSURANCE

Co.	Boots and shoes	Teas and coffees	Hardware
A . . . . .	\$1,000 ( $\frac{1}{5}$ of \$5,000)	\$1,333 33 ( $\frac{3}{15}$ of \$5,000)	\$2,666 67 ( $\frac{8}{15}$ of \$5,000)
B . . . . .	1,200 ( $\frac{1}{5}$ of \$6,000)	1,600 00 ( $\frac{3}{15}$ of \$6,000)	3,200 00 ( $\frac{8}{15}$ of \$6,000)
C . . . . .	2,500 (specific)	3,000 00 (specific)	2,000 00 (specific)
	<u>\$4,700</u>	<u>\$5,933 33</u>	<u>\$7,866 67</u> (insufficient)

Deficiency on Hardware = \$133.33 (\$8,000 — \$7,866 67)

\$60.60 ( $\frac{5}{11}$  of \$133 33) to be secured from A as follows:

\$25.97 ( $\frac{3}{4}$  of \$60 60) from boots and shoes

\$34 63 ( $\frac{1}{4}$  of \$60.60) from teas and coffees

<sup>1</sup> Thornton, A. W., "Apportionments under Non-concurrent Policies and Exemplification of the Kinne Rule" Annual Report of the Proceedings of the Fire Insurance Society of San Francisco, 1910-1911, Problem 7, Page 11.

\$72 73 ( $\frac{3}{11}$  of \$133 33) to be secured from *B* as follows:

\$31 17 ( $\frac{3}{4}$  of \$72 73) from boots and shoes

\$41 56 ( $\frac{3}{4}$  of \$72 73) from teas and coffees

#### REAPPORTIONMENT OF INSURANCE

Co.	Boots and shoes	Teas and coffees	Hardware
<i>A</i>	\$ 974 03 (\$1,000 - \$25 97)	\$1,298 70 (\$1,333 33 - \$34 63)	\$2,727 27 (\$2,666 67 + \$60 60)
<i>B</i>	1,168 83 (\$1,200 - \$31.17)	1,558 44 (\$1,600 - \$41 56)	3,272 73 (\$3,200 + \$72 73)
<i>C</i>	2,500 00	3,000 00	2,000 00
	<u>\$4,642 86</u>	<u>\$5,857 14</u>	<u>\$8,000 00</u>

#### APPORTIONMENT

Co	Boots and Shoes		Teas and Coffees		Hardware	Totals	
	Loss \$3,000		Loss \$4,000		Loss \$8000	Loss \$15,000	
	Insures	Pays	Insures	Pays	Insures and pays	Insures	Pays
<i>A</i>	974 03	629 37	1,298 70	886 75	2,727 27	5,000	4,243 39
<i>B</i>	1,168 83	755 24	1,558 44	1,064 42	3,272 73	6,000	5,092 39
<i>C</i>	2,500 00	1,615 39	3,000 00	2,048 83	2,000 00	7,500	5,664 22
	<u>\$4,642 86</u>	<u>\$3,000 00</u>	<u>\$5,857 14</u>	<u>\$4,000 00</u>	<u>\$8,000 00</u>	<u>\$18,500</u>	<u>\$15,000 00</u>

**The Geisse Rule.**—The Geisse Rule was used for a short period of time in New York City and adjacent territory, but was discarded. It may be stated as follows:

*First.*—Find the limit of liability under each class of insurance, which limit may be

- The full amount of the insurance, or
- The amount of loss to the property, or
- The average or coinsurance clause limit; and add these limits, thus establishing the total maximum liability.

*Second.*—Find the minimum liability under each class of insurance by giving it full contribution from all other class insurance covering any part of the property, and add these minimum liabilities, thus establishing the total minimum liability.

*Third.*—Find the difference between the limit of liability for each class and the minimum liability for each class.

*Fourth.*—Find the amount by which the total maximum liability exceeds the aggregate loss, an amount termed the excess.

*Fifth.*—Find the amount by which the total minimum liability falls short of the aggregate loss, an amount termed the shortage.

*Sixth.*—Add the excess and the shortage, and ascertain what percentage of the total is represented by the excess.

*Seventh.*—Determine the deduction to be made from each limit of liability by apportioning the excess to the respective differences found for each class, according to the percentage ascertained.

*Eighth.*—Deduct from each limit of liability the amount of excess apportioned to it for deduction, and the remainder will be the amount to be paid by the class.

#### Example

All Policies Contain 80 Per Cent Average Clause

	Value	Loss	
Building A. ....	\$ 8,065 72	\$3,383 41	\$ 2,250 specific insurance
Building B ... ..	3,813 76	3,604 01	
Building C .....	1,905 90	500 00	1,750 specific insurance
			5,250 blanket insurance
			covering A and B
			2,750 blanket insurance
			covering B and C
	<hr/>	<hr/>	
	\$13,785 38	\$7,487 42	\$12,000

#### Limits of Liability

Specific on A	$\frac{\$2,250\ 00}{80\ \text{per cent of } \$8,065.72} \times \$3,383.41 = \$1,179\ 79$
Blanket on A and B	$\frac{\$5,250\ 00}{80\ \text{per cent of } \$11,879.48} \times \$6,987.42 = \$3,860\ 01$
Blanket on B and C	$\frac{\$2,750\ 00}{80\ \text{per cent of } \$5,719\ 66} \times \$4,104.01 = \$2,466\ 50$
Specific on C	$\frac{\$1,750\ 00}{80\ \text{per cent of } \$1,905.90} \times \$500\ \text{exceeds } \$\ 500\ 00$
Maximum .....	.. .. $\frac{\text{(loss)}}{\$8,006\ 30}$

## Minimum Liabilities

Specific on A	$\frac{\$2,250}{\$7,500} \times \$3,383.41 = \$1,015.03$
Blanket on A and B	$\frac{\$5,250}{\$10,250} \times \$6,687.42 = \$3,578.92$
Blanket on B and C	$\frac{\$2,750}{\$9,750} \times \$4,104.01 = \$1,157.54$
Specific on C	$\frac{\$1,750}{\$4,500} \times \$500 = \$194.44$
Minimum .. .. .	\$5,945.93

## Determination of Difference

	Limit of liability	Minimum liability	Difference
Specific on A . . .	\$1,179.79	\$1,015.03	\$ 164.76
Blanket on A and B	3,860.01	3,578.92	281.09
Blanket on B and C	2,466.50	1,157.54	1,308.96
Specific on C . . .	500.00	194.44	305.56
	\$8,006.30	\$5,945.93	\$2,060.37

## Determination of Excess and Percentage

Limit of liability, or maximum . . . . .	\$8,006.30	
Aggregate loss . . . . .	7,487.42	\$7,487.42
Excess . . . . .	\$ 518.88	
Minimum liability . . . . .		5,945.93
Shortage . . . . .		\$1,541.49
Add excess . . . . .		518.88
Total . . . . .		\$2,060.37

Excess \$ 518.88  
 Total \$2,060.37 = 25.1837 per cent percentage

## Determination of Deduction for Excess

	Difference	Deduction
Specific on A . . . . .	\$ 164.76 $\times$ 25.1837 per cent	\$ 41.49
Blanket on A and B . . . . .	281.09 $\times$ 25.1837 per cent	70.79
Blanket on B and C . . . . .	1,308.96 $\times$ 25.1837 per cent	329.65
Specific on C . . . . .	305.56 $\times$ 25.1837 per cent	76.95
	\$2,060.37	\$518.88

## Deductions Made

	Limit of liability	Deduction	Amount to be paid
Specific on <i>A</i> . . .	\$1,179.79	\$ 41 49	\$1,138 30
Blanket on <i>A</i> and <i>B</i> . . .	3,860 01	70.79	3,789.22
Blanket on <i>B</i> and <i>C</i> . . .	2,466.50	329 65	2,136 85
Specific on <i>C</i> . . .	500 00	76 95	423 05
	\$8,006 30	\$518.88	\$7,487 42

## Apportionment

	Insures	Pays
Specific on <i>A</i> . . . . .	\$ 2,250	\$1,138 30
Blanket on <i>A</i> and <i>B</i> . . . . .	5,250	3,789 22
Blanket on <i>B</i> and <i>C</i> . . . . .	2,750	2,136 85
Specific on <i>C</i> . . . . .	1,750	423 05
	\$12,000	\$7,487 42

**The Morristown Rule.**—The Morristown Rule had only a limited use, and has been discarded. It may be stated as follows:

*First.*—Find the minimum liability under each class of insurance by giving it full contribution from all other insurance covering any part of the property.

*Second.*—Find the limit of liability under each class of insurance, which limit may be

- The full amount of the insurance, or
- The amount of loss to the property, or
- The average or coinsurance clause limit.

*Third.*—Find the difference between the sum of the minimum liabilities and the aggregate loss, this difference being termed the deficit.

*Fourth.*—Distribute the deficit pro rata to the minimum liabilities, unless to do so would produce an amount exceeding the limit of liability of any class of insurance.

*Fifth.*—Reapportion any excess to the other liabilities.

## Example

All Policies Contain 80 Per Cent Average Clause

	Value	Loss	Insurance
Building (A) .	\$ 8,065 72	\$3,383 41	\$ 2,250 (specific)
Building (B)	3,813 76	3,604 01	
Building (C) . .	1,905.90	500 00	1,750 (specific)
			5,250 (blanket covering A and B)
			2,750 (blanket covering B and C)
	<hr/>	<hr/>	
	\$13,785 38	\$7,487 42	\$12,000

## Minimum Liabilities

Specific on A	$\frac{\$2,250}{\$7,500} \times \$3,383\ 41 = \$1,015\ 03$	
Blanket on A and B	$\frac{\$5,250}{\$10,250} \times \$6,887\ 42 = \$3,578\ 92$	
Blanket on B and C	$\frac{\$2,750}{\$9,750} \times \$4,104\ 01 = \$1,157\ 54$	
Specific on C	$\frac{\$1,750}{\$4,500} \times \$500\ 00 = \$194\ 44$	
Minimum		<hr/>
Aggregate loss	.. .	\$5,945 93
Sum of minimum liabilities	.. .	\$7,487 42
		<hr/>
Difference, or deficit	. . . . .	5,945 93
		<hr/>
		\$1,541 49

## Limits of Liability

Specific on A	$\frac{\$2,250}{80\ \text{per cent of } \$8,065\ 72} \times \$3,383\ 41 = \$1,179\ 79$
Blanket on A and B	$\frac{\$5,250}{80\ \text{per cent of } \$11,79\ 48} \times \$6,987\ 42 = \$3,860\ 01$
Blanket on B and C	$\frac{\$2,750}{80\ \text{per cent of } \$5,719\ 66} \times \$4,104.01 = \$2,466\ 50$
Specific on C	$\frac{\$1,750}{80\ \text{per cent of } \$1,905\ 90} \times \$500\ 00 \text{ exceeds } 500.00$
	<hr/>
	(loss)
	<hr/>
	\$8,006 30



## Distribution of Deficit

	Minimum liability	Deficit	Total
Specific on <i>A</i> . . . . .	\$1,015 03	\$ 263 15	\$1,278.18
Blanket on <i>A</i> and <i>B</i> . . . . .	3,578 92	927 84	4,506 76
Blanket on <i>B</i> and <i>C</i> . . . . .	1,157 54	300 09	1,457 63
Specific on <i>C</i> . . . . .	194.44	50 41	244 85
	\$5,945 93	\$1,541.49	\$7,487.42

	Minimum liability plus deficits	Limits of liability	Excess over limits
Specific on <i>A</i> . . . . .	\$1,278 18	\$1,179 79	\$ 98 39
Blanket on <i>A</i> and <i>B</i> . . . . .	4,506.76	3,860 01	646 75
Blanket on <i>B</i> and <i>C</i> . . . . .	1,457 63	2,466 50	
Specific on <i>C</i> . . . . .	244 85	500 00	
	\$7,487.42	\$8,006 30	\$745 14

## Apportionment of Excess

	Minimum liability plus deficit	Excess	Total
Blanket on <i>B</i> and <i>C</i> . . . . .	\$1,457.63	\$637 97	\$2,095 60
Specific on <i>C</i> ..... . . . .	244 85	107.17	352.02
	\$1,702.48	\$745 14	\$2,447 62

## Apportionment

	Insures		Pays
Specific on <i>A</i> . . . . .	\$ 2,250	(Limit)	\$1,179 79
Blanket on <i>A</i> and <i>B</i> . . . . .	5,250	(Limit)	3,860 01
Blanket on <i>B</i> and <i>C</i> . . . . .	2,750	(\$1,457.63 plus excess, \$637 97)	2,095 60
Specific on <i>C</i> ..... . . . .	1,750	( 244 85 plus excess, \$107.17)	352.02
	<u>\$12,000</u>		<u>\$7,487.42</u>

**Gradual Reduction Rule.**—The Gradual Reduction Rule may be stated as follows:

The blanket insurance contributes from its full amount with the specific insurance on the item to be first apportioned, and its remainder with the specific insurance on the next item, and so on until all items are apportioned, or until the blanket insurance is exhausted. If there are items which are covered only by the blanket insurance, these are first paid out of the blanket insurance.

The first item to be apportioned, and the sequence to be followed in apportioning subsequent items are determined by the form of the rule used.

There are three forms of the Gradual Reduction Rule.

The *Connecticut Rule*, also known as the Hartford Rule, and as the Schmaelzle Rule, requires that apportionment of the item on which there is the largest loss shall be made first, and of the item on which there is the next largest loss, next, and of the remaining items in the same order of diminishing loss.

The *Chicago Rule* requires that the items be taken up for apportionment according to the order appearing on the form. Obviously this rule can only apply when the specific insurance is written under a schedule form.

The *Western Rule* requires that the items be taken up for apportionment in the order that will result in the smallest payment by the blanket policy. This order can only be determined by experiment.

#### Example

Property insured	Value	Loss	Insurance
General machinery . . . . .	\$ 7,556 95	\$3,824 61	\$15,000 blanket
Folder. . . . .	500 00	25 00	500 specific
Perforator.. . . .	600.00	25 00	500 specific
Dexter folder. . . . .	2,400 00	62 50	1,800 specific
Press C59848. . . . .	435 00	125.00	500 specific
Press C58265... . . . .	545 00	145 00	400 specific
Stitcher..... . . . .	454 00	150 00	400 specific
Saw trimmer.. . . .	462 00	150.00	400 specific
	\$12,952 95	\$4,507 11	\$19,500

No coinsurance or average clauses  
Order of Western Rule followed

## Apportionment

	Insures	Pays	Recapitulation	
			Specific	Blanket
General machinery, blanket .	\$15,000	\$3,824 61		\$3,824 61
Folder, blanket ..	\$11,175 39	\$ 23 93		23 93
specific... . . . .	500	1 07	\$ 1.07	
	\$11,675 39	\$ 25 00		
Perforator, blanket .. . . .	\$11,151 46	\$ 23 93		23 93
specific . . . . .	500	1 07	1 07	
	\$11,651 46	\$ 25 00		
Dexter folder, blanket...	\$11,127.53	\$ 53 80		53 80
specific.... . . . .	1,800	8 70	8.70	
	\$12,927 53	\$ 62 50		
Press, C59848, blanket . . . . .	\$11,073 73	\$ 119 60		119 60
specific . . . . .	500	5 40	5 40	
	\$11,573 73	\$ 125 00		
Press, C59265, blanket . . . . .	\$10,954 13	\$ 139 89		139 89
specific .. . . .	400	5 11	5.11	
	\$11,354.13	\$ 145 00		
Stitcher, blanket . . . . .	\$10,814 24	\$ 144 65		144 65
specific.. . . .	400	5 35	5 35	
	\$11,214 24	\$ 150 00		
Saw trimmer, blanket . . . . .	\$10,669 59	\$ 144 58		144 58
specific.. . . .	400	5 42	5 42	
	\$11,069 59	\$ 150 00	\$32 12	\$4,474 99
				32 12
			Total	\$4,507 11

Space does not permit the setting up of this apportionment in the form followed in the West. Three of the items are shown as they would appear on the apportionment sheet ordinarily attached to the proof of loss.

## Apportionment

	General machinery		Folder		Perforator	
	Insures	Pays	Insures	Pays	Insures	Pays
Blanket . .	\$15,000	\$3,824 61	\$11,175.39	\$23 93	\$11,151 46	\$23 93
Specific . . .		.	500 00	1 07		
Specific ....		. . . .		. .	500 00	1 07
	\$15,000	\$3,824 61	\$11,675 39	\$25 00	\$11,651 46	\$25 00

**Limit of Liability Rule.**—The Limit of Liability Rule may be stated as follows:

The loss is apportioned to each policy, item, or class of insurance in that proportion which the amount for which each would be liable if there were no other insurance, bears to the whole amount for which all are liable.

The amount for which a policy, item, or class of insurance would be liable if there were no other insurance is known in the language of the rule as its *limit of liability*. This amount, or limit of liability may be

- (a) The full amount of the insurance,
- (b) The full amount of the loss, or
- (c) The average or coinsurance clause limit.

Under the Limit of Liability Rule only two steps are required

1. Find the limit of liability for each class of insurance, whether a single policy, or a group of policies covering concurrently, and add these limits.

2. If the sum of the respective limits is greater than the whole loss, apportion to each limit such proportion of the whole loss as the amount of the limit bears to the sum of the limits.

## Example

	Value	Loss		Average Clause, Per Cent
Building .	\$34,860 00	\$14,624 00	\$17,000 specific insurance	90
Stock	8,504 95	8,504 95	3,000 specific insurance	80
Machinery	19,287 72	8,050.00	9,000 specific insurance	80
			16,000 blanket all items	90
			28,000 blanket, stock and machinery	90
	<hr/>	<hr/>		
	\$62,652 67	\$31,178 95	\$73,000	

Limits of Liability  
Specific on building

## Apportionment

$\frac{17,000}{90 \text{ per cent of } 34,860} \times \$14,624 =$		7,924 01	\$ 6,022 78
Specific on stock			
Loss exceeds insurance, limit is	.. . . .	3,000 00	2,280 19
Specific on machinery			
$\frac{9,000}{80 \text{ per cent of } 19,287 72} \times 8,050 =$		4,695 35	3,568.78
Blanket all items			
$\frac{16,000}{90 \text{ per cent of } 62,652 67} \times 31,178 95 =$		8,847 06	6,724.35
Blanket, stock and machinery			
Loss is limit	.... .	16,554 95	12,582 85
		<hr/>	<hr/>
		\$41,021 37	\$31,178 95

## CHAPTER XIV

### OBJECTIVES AND METHODS

**General.**—The insurance contract contemplates that claim shall be made on the basis of exact figures; but this can be done only when the insured knows the exact amount of his loss, will be satisfied to receive it, and does not think it necessary to adopt trading tactics to collect it. As there are many cases in which one or more of these conditions may be lacking, it is not surprising that many claimants ask for more than they are entitled to. In some cases they will be in doubt as to the amount of loss or their rights under the insurance contract. In others, they may be under the impression that, to get what they should, they must present high figures and trade on them. In still others they aim to get as much as they can. The desire to bargain and be a gainer in every transaction is a ruling passion with many, and will be strongly in evidence when these persons appear as claimants. In a relatively small number of cases, but a number actually great enough to cause considerable trouble and expense to the insurance companies, the claimants will plan to defraud the companies of substantial sums. In all of these cases, the attitude and conduct of the claimant will make it difficult for the adjuster to effect an accurate or equitable adjustment.

In difficulties arising out of the claimant's ignorance, the adjuster may well spend considerable time showing him the truth about his loss, and explaining to him his rights and duties under the insurance contract. Most claimants lack the ability to visualize ways of restoring damaged property to usefulness, few persons suffer more than one loss in a lifetime, and therefore have no experience to guide them in their efforts to handle articles that have been injured by fire. Moreover, the public have several misconceptions of the insurance contract, a common one being that the claimant should do nothing to disturb the appearance of the property, or even protect it or put it in order, until after the arrival of the adjuster.

In cases made difficult by the claimant's desire to bargain, or to collect a loss not covered by the policy, or to realize on a grossly exaggerated or fraudulent claim, the adjuster in order to bring about a proper adjustment must employ the tactics demanded by the particular situation and claimant.

A proper disposition of the claim is the purpose of every adjustment, to accomplish which the adjuster must determine the question of loss and liability, and convince the insured that these have been determined properly. If the insured cannot, or will not, be convinced, the adjuster must proceed in whatever course may be necessary to enforce the contract; assuming, of course, that he is sure of his position. All reasonable chance of error should be eliminated, and there should be no hesitation to change a position once taken if new evidence comes to light. But when sure of his position, the adjuster should maintain it by refusal to proceed unless it is acknowledged, or by use of one or more of the requirements of the policy, or by preparation for litigation if there is no reasonable alternative.

Tactful and diplomatic handling of claimants is essential, as otherwise the adjuster will arouse unnecessary antagonisms which in many cases he will be unable to overcome. Human feelings and emotions play a large part in adjustment work, so large that, unless the adjuster has a marked ability for handling people, he should be in other employment. As the negotiations leading up to an adjustment should represent an earnest endeavor to ascertain an actual state of facts, they should be conducted so as to obviate unnecessary friction or ill feeling. Unless so conducted, adjuster and claimant may become engaged in a conflict of personalities likely to end in an inequitable settlement, leaving a dissatisfied policyholder who may thereafter become an active enemy of the company or agency insuring him. The adjuster, therefore, who cannot command the confidence of honest claimants, and the respect of all, will find that many of his adjustments degenerate into controversies or contests, in which he will find it difficult to hold his own. Ignorance of human nature, or an arrogant unwillingness to accept the fundamentals of human relations, will lead him to inevitable disaster. He should always remember that, while he is dealing with losses every day, the average claimant suffers but one loss in a lifetime,

and is ordinarily very much disturbed by the occurrence. The adjuster's position obligates him to deal fairly, and experience should broaden his understanding to a state in which the nervous and excited actions of claimants do not even irritate him, but merely indicate to him the manner he should adopt to bring about a condition of confidence and cooperation on the part of the honest, or of respect or apprehension on the part of the grasping or criminal. He will encounter many cases in which the facts are in doubt and cannot be clearly established, others in which the claimants are ignorant, unreasonable, or even criminal in their presentation of claim. In any of these cases, the negotiations may require time and skillful handling, sometimes diplomatic, sometimes forceful, and may finally reach the point where compromise, appraisal, or litigation is in order. The methods used to determine loss and liability have been discussed in previous chapters. The methods usually employed to bring about an adjustment, a compromise, or an abandonment of an improper claim, when the views of the adjuster and of the claimant are, for a time at least, divergent, are discussed here.

**Objectives.**—All reputable insurance companies expect their adjusters to adjust losses fairly and honestly, but to be on guard against excessive, improper, or fraudulent claims. They expect prompt adjustment of reasonable claims, and the reduction of excessive claims to proper figures. Claims under void policies, or for losses not covered, are to be rejected, or, in case of extenuating circumstances, submitted to the company for consideration. Fraudulent claims are to be resisted, and, if they cannot be defeated, are to be reduced to an amount that allows the claimant no profit on his attempt.

To gain his objectives, the adjuster must, in many cases, parallel the work of the trial lawyer, testing the claimant and his evidence, presenting his own evidence in the most effective fashion, and arguing his points or appealing to the emotions of the claimant, choosing the method which promises the best result. In some respects, the adjuster's work is more difficult than the lawyer's because he must be less of a partisan, and must look beyond his adjustments to their ultimate effects on the business of his company. The lawyer in court deals with a



hostile adversary, while the adjuster deals with many claimants who are long-time customers of his company. He is, therefore, restrained by many considerations the lawyer may ignore. For instance, when handling an excessive claim made by a desirable policyholder, he has before him the lawyer's duty of protecting the interest he represents, but in addition, an added duty to effect the protection in such a manner as to retain the good-will and patronage of the claimant. On the other hand, when handling fraudulent or suspicious claims, he lacks the protection accorded the lawyer in the privileged relation of counsel and client, and must therefore act with greater caution.

**Reasonable Claims.**—Reasonable claims under valid policies should be promptly checked and disposed of. Nothing can be gained by delaying the adjustment, once it is determined that the insured is only asking for what he is entitled to. On the contrary, dilatory or careless handling may prove costly to the company in the way of lost business or disturbed agency relations. Haste, with its attendant possibility of error, should be avoided, but decision should not be postponed, once the claim has been thoroughly examined and verified. Some examples follow.

Following a sweeping fire in the stockyards of a city of some 150,000 people, claim was made by a firm of live-stock dealers for loss on a large number of animals. In support of the claim the dealers offered to assist in a count of the dead bodies, to turn over their books for audit, and to furnish a transcript of their general books, kept in another city from which the animals were shipped by rail. A committee of adjusters was formed under the chairmanship of an experienced independent adjuster, who allotted tasks to the various committee members. One audited the books and prepared an independent statement, one assisted in the count of the animals, another interviewed the foremen in charge of the pens, while still another checked the railroad records for deliveries. The work was completed by the time the transcript of the general books arrived, and on assembling the details, the claim was substantiated. It was promptly admitted and proofs of loss were forwarded for payment without delay.

During the early days of the world war period the roof on a large pipe-casting pit was burned away, leaving the supporting steel purlins and trusses badly bent from the heat. The plant

had on hand a number of important orders, and prompt repair was essential. The insured presented a claim supported by an engineer's estimate of the cost of material and labor necessary to re-roof. The adjuster inquired into the insured's plans for making the repairs, and was informed that, as the plant employed a number of structural steel workers, the engineers had planned to erect open-air forges on each side of the structure, to lower and straighten the bent steel members after cutting out the rivets, and to hoist them back into place and re-rivet them. As the insured was a large concern of excellent reputation, the adjuster felt certain that, under the plan proposed, the expense of repair would be less than the estimate, and suggested the advisability of having the repairs made under the check of an independent engineer, the loss to be adjusted at the actual cost. This plan was agreed upon immediately, and by following it there was a saving of more than 30 per cent of the original estimate.

A third case involved a large concern making bolts, nuts, washers, and similar articles. The plant was completely destroyed and on inspection seemed to be badly under-insured. Balance sheets, inventories, and detailed specifications of all the structures had been preserved in the safes. The insured's claim was based on these records, and seemed to be in order. Because the loss apparently exceeded the insurance by a wide margin, the adjusters decided to test the correctness of the claim in a general way rather than to expend the time and money required for a detailed checking. They, therefore, prepared an independent statement of value from the book records, and, in company with a competent engineer, made a careful survey of the ruins. The engineer's familiarity with machinery prices enabled him to certify that the loss was greatly in excess of the insurance, and his certificate justified the prompt approval of the claim.

The prompt adjustment of a reasonable claim should be followed by immediate completion and mailing of the final papers, to the company, so that payment may be equally prompt.

**Excessive and Improper Claims.**—Claims are frequently presented for amounts greater than the actual loss sustained, for loss not covered by the policy, for loss not caused by the fire, or for loss to property not insured. Many excessive claims are made because of the claimants' ignorance of what can be done

to repair or recondition property; others, because a certain percentage of claimants look upon the adjustment of a loss as a contest in which the claimant must start at a figure high above what he expects to collect. Some look upon an insurance policy as a lottery ticket, and believe they are entitled to collect as much as they can without resorting to deliberate fraud or misrepresentation. Ordinarily, the reasonable claimant who asks in ignorance for more than he should receive, can best be handled by the adjuster, as a pupil is handled by his teacher. The loss should be carefully explained to him, values established in a manner that will convince him, and the real amount of the loss so clearly demonstrated that he will be compelled to concede its correctness. While this is not always possible it can often be accomplished, and should usually be the first method tried.

**Reasonable but Misinformed Claimants.**—As a case in point, a claim was presented which included a soda-fountain only slightly discolored by smoke and water, although part of the building had fallen in around it. The amount asked was considerably greater than the adjuster's idea of the damage, but as the insured seemed to be conscientious and willing to be convinced, the adjuster decided to make a demonstration. He employed a laborer, furnished him with necessary supplies, and directed him in cleaning the fountain. When the work was finished the insured looked it over and promptly admitted that the only loss he could claim was the cost of removing it to a place of safety.

In another instance several floors of a wholesale grocery establishment were involved. The fire started on the top floor, and was confined there by the sprinklers, but these discharged enough water to wet the contents of the floors below. The insured inventoried the damaged goods on those floors before the adjuster arrived, and presented claim for a high percentage of value. The adjuster's examination convinced him that the claim was excessive, but made in ignorance. He asked the insured to commence at once working over the stock, setting aside all damaged packages, and transferring the undamaged to dry quarters nearby. When the work was finished, the insured voluntarily reduced the claim to less than one-fifth of the amount first asked, stating that he was pleasantly surprised to find

out how much perfect merchandise was left under the top layers.

In another case a firm of exporters suffered a loss in a public warehouse. Claim was based on warehouse receipts, the entries including as totally lost and missing a large quantity of cotton goods in export packages. On examination of the premises the adjuster found that only a small fire had occurred, entirely too small to account for the destruction of the goods. The active partner of the firm was asked to meet the adjuster at the warehouse for a discussion. The adjuster measured one of the remaining packages, measured the floor area scorched, and asked the active partner if the evidence warranted the conclusion that the missing goods had been burned. The active partner was compelled to answer "no," and made an investigation which resulted in a withdrawal of claim for missing packages. The loss on the other items was satisfactorily adjusted, and later investigation by the insured indicated that a series of thefts had been the cause of the disappearance.

In the case of a cottonseed warehouse situated in a town some 50 miles away from the oil mill owning it, a local buyer was employed to buy seed during the ginning season. He was furnished with funds and report blanks, and made daily reports of his purchases. Toward the end of the season, the warehouse burned. The president of the oil-mill company had a claim prepared from the book record of purchases and withdrawals, but frankly stated to the adjuster that the claim might be in excess of the value of seed on hand because word-of-mouth reports had reached him indicating that the buyer had been spending considerably more money than his commissions, and was suspected of having reported purchases which were never actually made. The adjuster, after looking over the damaged premises, located a blueprint of the building, from which it was possible to calculate its storage capacity. Using this as a basis, a reasonable settlement was at length worked out, materially less than the original claim.

In the foregoing instances the claimants were never in a hostile frame of mind, therefore it was never necessary to put them under pressure. In each of the instances there was a problem to be solved, but a willingness on the part of the claimant

to assist in the solution, and to accept it once its correctness was clearly demonstrated. Such an attitude on their part indicated to the adjuster that negotiations would come to a proper ending if he determined the actual facts, and presented them so clearly that the one conclusion to be drawn would be immediately apparent.

**Hostile but Honest Claimants.**—Claimants are not always reasonable, particularly when they sincerely believe that their losses will approximate, or exceed, the insurance. In such cases they are likely to be restive, and may become quite hostile in their attitude, if asked to carry out any condition of the policy contract entailing loss of time or expenditure of money.

A case of this kind arose in connection with the claim on a large stock of wholesale dry goods, damaged by the falling wall of a building next door. The stock was on several floors, two of which were crushed by the debris of the wall. The destruction of the roof was so extensive that to make the premises weather-tight would have required complete reconstruction. Therefore, the immediate problem of the loss was to remove the stock and protect it from further damage. As the insured was a close trader he had kept his insurance barely equal to the amount required by the coinsurance clause, thus leaving himself with an uninsured margin running into thousands of dollars. According to his ideas, he was entitled to a total loss under the policies and all the salvage, and would still be a loser. The adjuster felt certain that he could recover and sell the salvage for enough to save the insured from any loss, and at the same time save money for the companies. He therefore, offered the insured the services of the Underwriters' Salvage Company to remove and recondition the stock. The insured not only rejected the offer, but became surly and ill tempered, finally asserting that he could remove and handle the goods to better advantage than any salvor. The adjuster at once seized on this remark, and informed the insured that the policy required the protection of the goods, that their salvage value might be insufficient to cover the margin between insurance and sound value and that if under the circumstances he preferred use his own efforts, rather than to have the work done by the Salvage company, it was his right under the policy to do so but a right to be exercised

at his own risk. The insured intimated that he would do nothing, and demanded payment of a total loss. The adjuster replied with emphasis that, unless the insured performed his duties under the contract, the claim would be resisted and paid only after final judgment by the highest court. In this hostile atmosphere the first meeting broke up. The next day the insured called at the adjuster's office and asked advice about the kind of building that would be best suited for handling the merchandise. He was advised to take one sufficiently commodious to allow space for racking and drying. A few days later the insured again asked for some advice, and this time the adjuster sent a representative of the Salvage Company to the premises to explain what should be done. The adjuster followed and looked over the merchandise. The insured asked what he thought of it. The adjuster answered that, if the rest of the work was done as well as the first part, the final result would be highly satisfactory. A few hours later the insured appeared at the office and suggested that the Salvage Company complete the task. In the end a most satisfactory adjustment was reached, and afterwards the insured became a valued adviser and appraiser for the adjustment office toward which his first attitude was so hostile. He was a strong man and needed strong treatment when he started off on the wrong foot, but when he found that his adversary was neither afraid of him nor vindictive, he came first to respect him and then to like him, after which he was no longer an adversary but a councilor.

**Trading Claimants.**—Certain claimants are not content with collecting for their actual loss, but seek to get as much as they can by trading tactics. These claimants are quite numerous for it is human to try to drive a good bargain. While they are found in every walk of life, they are less numerous among the educated and well-to-do classes. When recognized, they must be handled with tactics that are sometimes distasteful, but they cannot be successfully dealt with by methods that are effective with the types previously considered. The successful handling of the trading type of claimant requires the adjuster to present his case in such a way as to make the claimant believe that he is collecting the last possible cent to be extracted from the company. The effort to be expended will vary according to the

tenacity of the claimant, and the negotiations will often take much more time than at first seems necessary. Trading tactics are essential with the trading type of claimant.

Some communities furnish an excessive percentage of claims deliberately presented for trading purposes. One of these communities is an old city of some 75,000 people. In that community excessive building claims at one time became so numerous as to be expected in practically all cases. A certain builder did much toward aggravating the condition, as it was his practice to solicit the work of making repairs, and to furnish the insured with two estimates, one to be shown to the adjuster, and the other to be the basis of the work actually to be done. An adjuster handling one of these cases had the good fortune to encounter a claimant advised by a lawyer who had had many dealings with the adjuster and who knew that he could rely on him. The claimant asked the adjuster to prepare his figures and meet him for discussion later. At the conference the claimant stated that under the advice of his lawyer, he would be inclined to listen to the adjuster's proposals. The adjuster took him at his word and exhibited his own estimate. The insured produced the two given by the builder in question, the lower being almost identical with that of the adjuster.

Few claims made by trading claimants, or under the guidance of such persons as this builder, will come to such a prompt conclusion. Ordinarily the negotiations must be extended, while arguments and appeals continue to the point of exhaustion. The adjuster must remember that in the end the claim may have to be appraised so he must beware of increasing his offer to an amount which, if not accepted, will prejudice his position in the appraisal. For this reason it is generally good generalship not to increase any offer until the claimant has receded somewhat from his first figure. Any vulnerable point in the claim should be the object of attack by the adjuster, for once it is carried the rest of the task becomes easier. A prompt discussion of depreciation, in connection with the kinds of property which depreciate at a rapid rate, will often start the trader claimant toward a reasonable adjustment. Wearing apparel, cotton-gin machinery, metal smokestacks, outside paint, and pine-shingle roofs are instances.

**Grasping and Unreasonable Claimants.**—When the claimant is of the grasping, overreaching type, it may become necessary to delay the adjustment or put pressure on him to bring him to reason. The unreasonable claimant who claims excessive damage by smoke may be directed to keep his property well aired, but intact, until the adjustment has been completed. From day to day the odor of smoke will become less, while the need of using the property, unless it is in storage, will become greater. Finally it will commence to dawn on the claimant that he will be better off to accept a reasonable settlement and resume his business or the use of his premises than to persist in his attempt at an excessive collection. But when the settlement of such a claim is delayed, the adjuster should not rely on the effects of delay alone. He cannot always foretell how the negotiations will end, and if forced into an appraisal or reference, or into litigation, he should be prepared. For this reason he should fortify his position with the views of competent outsiders who may later be used as witnesses if litigation becomes necessary. Delay in negotiating a settlement may work actual harm to the company's interest, unless, during the delay, the adjuster pursues his preparations.

A case in point was an unwarranted claim for smoke damage in a large shirt factory. There was a small fire in an attic which was extinguished before any real damage was done. The local representative of several of the companies looked over the property, and left the premises satisfied that claim would be limited to the minor repairs required in the attic. To his surprise the claim presented included a large amount for damage to the stock on all floors. The senior adjuster of the office assigned to the loss gave personal attention to the claim. After a careful examination, he declared he could find no evidence of loss below the attic, and when the insured persisted in his efforts to collect, the adjuster commenced immediate preparations for whatever might develop. Not only did he have the stock examined by reputable merchandise men, whose reports were reduced to writing and kept as evidence, but he did not rest until he had interested the civil authorities to such an extent that the insurance commissioner of the state had the premises examined independently, and received a report that no loss had been sustained. In the meantime, the claimant was first allowed to talk himself out,



and was thereafter left to his own devices. Finally the claim was withdrawn, the owners of the business admitting that it had been made at the instance of a subordinate whose zeal exceeded his judgment.

**Demonstrations.**—While delay will often bring about the reduction of an excessive claim, immediate active tactics are far more satisfactory when the evidence is clear enough to admit the making of some effective demonstration. The claimant should be called on to witness the demonstration, and to correct or criticise any of the adjuster's statements or actions. Thus at one and the same time his judgment and his emotions will be affected, and if the demonstration is conclusive he will rarely be able to persist in his improper attitude. In some cases the mere offer of a physical demonstration will cause a change of attitude, as the claimant will realize that the adjuster has discovered the truth.

Such a case developed out of the destruction of a bottling plant in a town of moderate size. The premises were of brick construction, with a concrete floor, and with a frame, tin-covered roof. There was enough inflammable contents in the way of crates and boxes to keep the volunteer fire department from getting inside to fight the fire, which did serious damage. When the adjuster arrived, he was informed by acquaintances that the fire was not above suspicion, as the business was on the verge of bankruptcy. In due course a claim was presented covering the contents. The machines were identifiable and were correctly listed. It was impossible to identify the other items of contents, such as syrups, extracts, crates, and bottles. Such books and records as were kept were in poor shape, and under the circumstances, unreliable. The adjuster was immediately impressed with the great number of bottles listed in the claim as destroyed. On questioning the claimant, he learned that the plant used a single style of bottle, several cases of these being still in evidence near the main doorway, where the fire had been somewhat controlled by the firemen. After hearing the claimant's story, the adjuster made an excuse to leave. Later he returned and, in the claimant's absence, took three of the unbroken bottles, which he weighed in a neighboring drug store. The bottles were blown to average 14 ounces each and showed a very slight variation in

weight. From the average weight the adjuster was able to calculate how many tons of glass should then be lying on the concrete floor to substantiate the claim for bottles. The claimant was asked to return to the premises, and was particularly questioned about the number of bottles on hand. He was quite positive that, if anything, he had understated the number. The adjuster then asked him for the average weight of a bottle. This caused him some confusion, but he finally answered that he supposed they weighed about a pound each. The adjuster informed him that he was overstating the weight by some two ounces, that, based on the actual weight, there should be a certain number of tons of glass on the floor, and that he would hire two laborers and a pair of scales, and proceed to weigh the glass, a proceeding the claimant might check if he cared to do so. The claimant intimated that he had probably made a mistake, promptly disappeared, and left his affairs to be settled by a trustee in bankruptcy some months later, who reduced the absurd claim on bottles to a figure justified by the debris.

Similar tactics were used to reduce an excessive claim on a manufacturer's stock of hand mirrors, reduced to fragments by heat, falling debris, and the battering of hose streams. In this case the weighing was actually done and the loss finally settled on a weight basis. The evidence and the use of it convinced the claimant that he could push his claim no further.

In another case claim was made for the rusting of a reserve stock of spring wire in coils, stored in the basement of a factory. The adjuster checked the water stains from the floor on which the fire occurred, and down the sides of the building to the basement. He became convinced that only a very small quantity of water had been used by the firemen, and that little of this had reached the basement. The weather before and after the fire had been hot and humid, the humidity being daily commented upon in the papers. It therefore seemed probable that the accumulation of rust in the basement was due to condensation of atmospheric moisture, and not to water from the fire above. At the time of inspection there was no water on the basement floors or walls, and none visible on any of the stock. The adjuster, therefore, determined to make a test. He returned to the cutting benches in the factory and asked for a dozen samples of spring wire, intimat-

ing it might be well for him to check the prices in the market. With these in hand he started out, but decided to have a last look at the basement. While going about among the coils of wire, he carefully placed the pieces of bright wire in various spots, and left the premises. When he returned a week later to negotiate the adjustment, the pieces had all accumulated rust, a demonstration that the basement was not a proper place to store unprotected steel wire. The claimant could not controvert the evidence of the pieces of wire, and reduced the claim to a trifling figure.

**Results of Adjuster's Carelessness.**—These instances well indicate that, whenever a claim seems to be excessive, the adjuster must immediately make a most careful examination of available evidence, determine the true position to be taken, and consider how to make his presentations or arguments most effective. Superficiality or slackness may lead to failure and even embarrassment. Incorrect conclusions may be drawn, unjust either to claimant or company, or positive evidence may be overlooked. To illustrate: an adjuster was assigned to a livery stable loss, in which the claim was for the burning of a quantity of hay. The hay was not in evidence when he arrived, but the claimant showed him the charred wagon body on which it had burned. The adjuster jumped to a conclusion, agreed to a settlement and left the premises. His employer happened to check the fire department report on the fire and noted that it had not occurred in the premises insured, but that the wagon and its contents had been fired by boys while standing at the curb a block away. The adjuster was asked for an oral report, and was afterwards directed to revisit the scene of the fire and report on the damage to the building. He came back greatly embarrassed by his original failure to look for smoke marks, the absence of which should have warned him to determine the actual location of the fire, which really occurred at a location not covered by the insurance.

**Deliberate Neglect of Property.**—There are some cases in which the insured seeks to keep the adjuster under pressure by neglecting to care for the property, and by seeking to make it appear that the progressing deterioration is chargeable to the adjuster's refusal to settle. In a case of this sort the adjuster

should retort with a written demand under the policy that the insured protect his property from further damage, and should see that the work of protection is pushed; otherwise, he should refuse to continue negotiations. This action was effectively taken during the negotiations on a serious damage to a machine shop and foundry, the machine shop unit of which had been unroofed by the fire. When the insured refused to coat the exposed machinery with grease, a peremptory letter was sent to him, calling his attention to the provision of the policy, and stating that unless the property was protected the adjustment would be adjourned. Greasing of the machinery was under way a few hours after the letter reached him.<sup>1</sup>

**Experts.**—In many cases it is expedient for the adjuster to reinforce his efforts with those of some person particularly qualified to deal with the claimant because of special familiarity with the kind of property involved. If, to the general experience of the adjuster, is added the special experience of a person well known in his trade or occupation, it will generally be possible to bring to light the true state of facts surrounding the loss. The person may be used as an *ex parte* appraiser, or may be asked to accompany the adjuster and engage in the general discussion with the claimant.

In the case of an exorbitant claim for smoke damage, made by a jeweler whose premises adjoined the building where the fire started, the adjuster became convinced that certain damages shown him were not the result of smoke. A number of pearl brooches ordinarily kept in a counter show case were dulled and blackened, in spite of the fact that the case door closed tightly, and, in the adjuster's opinion, the case had not been entered by the smoke. Realizing his need of help, the adjuster employed one of the best-known jewelers in the state to examine the stock with him. This jeweler examined the first brooch, called for a magnifying glass, and directed the adjuster's attention to fibers of cotton clinging to the settings. He explained to the adjuster that the brooches had been smudged over with cyanide in order to injure and blacken the pearls. The claimant was taxed with deliberately seeking to create the impression of loss, and countered by saying that he had exhausted all efforts to clean the

<sup>1</sup> A copy of the letter appears on p. 323.

pearls before finally trying the cyanide. Here the jeweler in the adjuster's employ was again able to supply a retort by inquiring whether it was not the custom to teach all jewelers' apprentices that pearls and cyanide should always be kept apart.

In another case, a stock of metal-cutting tools was involved. While the fire in the premises gained considerable headway before the alarm, the fire department handled it effectively, confining it to one side of the store. Within 24 hours the stock was properly dipped in oil, and an inventory was commenced. When claim was made, it was far in excess of the adjuster's idea of the damage, and he at once started an investigation. He selected a number of drills, chisels, milling cutters, reamers, and similar tools, taking three of each from the worst burned section of the bins. These tools he turned over to a consulting engineer familiar with the metal-working plants in the city, asking him to distribute them so that three separate plants should test the cutting qualities of each kind of tool. He was directed to see that each plant should use the tools in the kind of work they were intended for, and that the result of the tests be stated in writing over the signature of the plant manager. As all plants reported that, at the speeds for which the tools were designed, they functioned perfectly, the adjuster was able to establish his position that the loss was by no means so serious as was claimed. The technical knowledge of the engineer enabled him to specify the kind of metal each tool was expected to cut, and the rate of speed at which it should be operated without failure.

**Breach of Contract or Loss Not Covered.**—In the examination of many claims, the adjuster will find that some condition of the policy has been violated, or that the loss is not covered by the contract. When such cases are presented, the circumstances under which the loss occurred should be inquired into, care being taken to avoid waiving any forfeiture. If the circumstances indicate an innocent or immaterial violation of contract, or that, through mutual mistake on the part of the insured and the company's representative, the form failed to describe property which should have been included, the case should be reported in detail to the company, and instructions asked. On the other hand, if the breach of contract is serious and inexcusable, or if the loss resulted from a hazard not insured against, the

adjuster should at once prepare the company's defense if he finds the claimant intent on pressing the claim. In dealing with claims which may eventually be paid or compromised on a liberal basis, the adjuster should fix the factors of value and loss under the protection of a non-waiver agreement, in order to avoid the necessity of returning to the risk should the company elect to pay. Exact information covering these factors can be given in his report, if the matter is so handled, and thus the company will be fully informed when it considers its decision.

If a claimant refuses to sign a non-waiver agreement, the adjuster should leave him to his own devices, unless instructed by the company to overlook the breach of condition. The adjuster, however, should learn to present his requests for the execution of a non-waiver so clearly and diplomatically that they will not be refused except in extreme cases. When there is a refusal, he should await the next move of the claimant.

In some cases there will be several policies covering the same property; some valid, some void. In such cases the loss can be adjusted under the valid policies, and the information gained in the adjustment furnished to the companies whose policies are void.

In many cases it is well to reduce the agreement covering value and loss to writing. Such an agreement is called an *adjuster's agreement*.<sup>1</sup>

Care should be taken in drawing an adjuster's agreement, to have it state that it does not affect the liability of the company or companies, and has for its sole purpose the fixing of the amount of sound value and of loss and damage.

**Knowledge and Position of Agents.**—In many cases involving breach of contract, the claimant will assert that the agent had knowledge before the loss of the facts or circumstances affecting liability, and should have endorsed the policy to conform to them, or should have asked for cancelation. It is therefore well for the adjuster to question the agent, and learn whether he admits having had knowledge before the loss, for if he does, the company may be estopped from declaring the policy void. If the law of the state is such that no estoppel exists, the company may, nevertheless, decide that the agent will be greatly

<sup>1</sup>For specimens see page 348.

embarrassed if the claim is not paid, and may therefore pay the claim *ex gratia*. For this reason the adjuster should always include in his report a statement of the agent's knowledge and position in connection with a claim involving breach of contract.

**Fraudulent or Doubtful Claims.**—Fraudulent claims result from two actions; one, the deliberate burning of the property by the policy holder with the intent of collecting his insurance; the other, the willful attempt to collect more than he is entitled to. While a fraudulent claim may be the result of one or both acts, cases resulting from the latter are the more numerous. To commit the first act, the policyholder must use some foresight, and possess sufficient courage to take the attending risks. The second is often committed as the result of the opportunity offered after the loss has occurred, and is less dangerous, as in only a few states have laws been passed making it a crime to present a fraudulent proof of loss.

**Intentional Burning of Property.**—Claims resulting from fires of fraudulent or doubtful origin are usually handled by one of two methods; the one, furnishing the authorities with evidence to be used in their criminal prosecution of the incendiary; the other, collecting evidence that will sustain a plea of fraud should the claim go to suit.

As it is extremely difficult to prove arson, the number of prosecutions for this crime are comparatively few. Proof is most difficult when the owner is an individual, and burns his property himself. In such a case, he is ordinarily sufficiently careful to see that there is no witness to the crime, therefore, nothing but circumstantial evidence can be produced against him. Unless this is conclusive, conviction is impossible. Proof is apt to be easier if the owner employs a "torch," a person to do the actual firing, or if the act is committed by one or several partners or other interested persons, all of whom are aware of the plan to burn the property. A break may occur, resulting in a confession; numbers, in case of arson, being a source of danger rather than safety. In any case, however, the evidence necessary to convict must comply with the law's requirement, it must prove the case strictly, and beyond all doubt, a requirement applying in all prosecutions for crime. It is, therefore, a rare

occurrence when a claim is defeated by the conviction of the insured in a criminal case.

Willful burning by the insured may be effectively pleaded as a defense in a suit on the policy with less evidence in hand than would be necessary to sustain a criminal charge of arson. Instead of the strict proof required under the criminal charge, a preponderance of the evidence will be sufficient in the civil suit. Thus, while a conviction of the insured on the charge of arson will end his chance to recover on the policy, his acquittal will not necessarily entitle him to collect. The civil court may find that, while the evidence was not sufficient to warrant his conviction in the criminal trial, it is enough to warrant judgment against him in the civil proceedings.

In view of the foregoing, the adjuster should promptly commence to gather evidence when he finds that the fire was of fraudulent or doubtful origin. He should supplement his personal efforts by enlisting through his company the aid of the Arson Department of the National Board of Fire Underwriters, which maintains a corps of investigators for the purpose of running down incendiaries. In some cases it may be wise to retain the services of an independent professional investigator, and also to enlist the interest of the authorities, though this should generally be done through an attorney, because of his privileged position. If a fire marshal has jurisdiction, there is no objection to conferring with him direct, or with arson squads maintained by the police departments in some of the larger cities.

**Fraud in Making Claim.**—Fraud in making the claim itself is generally attempted by overstating the value of, or damage to, the property, or misstating the cause of the loss. Overstatement may include property never in the insured's possession or surreptitiously removed before the fire. A building, totally destroyed, may be greatly over-valued by the claimant in the hope that the adjuster will be unable to get sufficient data on its construction and condition to prepare an accurate estimate of its value. Or, because of a serious flaw in the title, the property may have been practically unsalable before the fire, and, therefore, commercially valueless. Stocks of out-of-date merchandise may be inventoried as staple, and second-hand articles, as new



goods. The damages to real or personal property may be grossly over-stated in the hope of making the adjustment a profitable transaction. Specifications of building damages may call for replacement of entire units or sections, when only slight repairs would be necessary to restore the condition existing before the fire, and when such repairs will be the only work done by the insured after the loss has been adjusted. Damages to personal property are exaggerated by the claim that articles subject to repair are useless, or that merchandise which can be reconditioned, or sold "as is" at reduced prices, is valueless. Personal property, because of its movable nature, easily lends itself to fraudulent claims in which there are listed as destroyed articles that were not in the premises at the time of the fire. Claims of this sort are frequent when the fire damage in any part of the premises was great enough to obliterate the contents. In some of these claims investigation has proved that the entire contents of an establishment had been removed before the fire, and that anything collected would have been clear profit.

Attempts are also made to collect for damages not caused by the fire, as, for instance, old cracks in masonry caused by settling, or by inferior workmanship or material. Of like nature are claims involving merchandise damaged in transit or in storage, when the claimant attempts to recoup at the expense of the insurance companies. There are also a number of doubtful and troublesome claims presented for alleged lightning damage during windstorms. The appearance of the property indicates wind damage, but the claimant supports his story of lightning with the statements of compliant neighbors. The same uncertainty attends claims involving gas explosions. In many of these cases, circumstances will indicate that there was no preceding hostile fire, nevertheless the claimant will have an abundance of oral testimony to support his allegation of its occurrence.

In handling doubtful claims the adjuster should decide whether to litigate or to compromise. In reaching his decision, he must bear in mind the uncertainties of all litigation, particularly cases involving questions of fact. This decision should then be submitted to the company in the form of a recommendation, unless the adjuster is empowered to act on his own authority. When so empowered, he should prepare his evidence and place it in the

hands of an attorney, should he decide to litigate; or make a tactful or forceful presentation to the insured if he hopes to compromise. Bureau, or independent adjusters are seldom vested with general authority to act in doubtful cases. They should, therefore, report fully and act on specific instructions. Reports should cover the evidence obtainable to support the adjuster's conception of the facts, as it is ordinarily more difficult to establish the facts than to determine the law applying.

**Tact and Method.**—To gain his objectives, the successful adjuster employs tact, a large amount of common sense, and method. Tact cannot be taught to the person who does not possess it; it is a quality of mind. It enables its possessor to deal naturally with other persons so that the maximum degree of cooperation is obtained. Method, on the other hand, is developed as the result of experience and study; much of it can be learned from others. Method supplements tact, for the intelligent claimant, seeing the work of the adjuster proceeding without lost motion, has no reason to become impatient; and the grasping claimant, finding the adjuster creating increasing difficulties for him, yet keeping within the policy, is compelled to respect his adversary.

**Dispatch.**—It is quite essential that loss work proceed without being delayed by unnecessary inquiries, which not only reduce the adjuster's ability to handle a normal volume of work, but also tend to irritate claimants, sometimes to the point where they retaliate by putting obstacles in the path of a reasonable adjustment. While the proceedings of an adjustment are not to be governed by the rigid rules of a trial court, it is well to keep the proceedings fairly close to the matter in hand, with few wanderings after the immaterial, the irrelevant, and the incompetent.

**Acceptance or Verification.**—In order to eliminate unnecessary delay, the adjuster should learn what information can be accepted, and what must be verified. He can observe with profit the work of a paying teller, who cashes without hesitation nine out of ten checks presented to him but who ordinarily turns down those in excess of the drawee's balance. In similar fashion the adjuster should learn to dispatch the mass of work that must pass before him, accepting the patently

correct answers or data given him by claimants, but holding up for investigation those which require it. The teller has an advantage over the adjuster, in that he deals with a slowly changing group of customers, while the adjuster is in contact with new claimants about many of whom he can get only meager information. Nevertheless, with increasing experience the adjuster will learn much, and if he has sufficient intellectual capacity, will eventually develop the ability to discover many irregularities almost as soon as they are presented. While he will never become perfect in this respect, he should become proficient to such a degree that his failures will be only those which other intelligent, experienced men would ordinarily make under the same circumstances.

In reaching a decision to accept a statement, or to investigate it, the adjuster should, consciously or otherwise, test it by one or more of the methods which men everywhere use in business dealings. He should consider the reputation of the person making the statement, the relation of the statement to other circumstances, and the probability of its accuracy as indicated by past experience.

**Reputation.**—An active wholesaler was the executor of a large estate, and was charged with the duty of managing a number of tenant dwellings. He was a man of the highest reputation for integrity and ability. An adjuster was assigned a loss on one of the tenant properties, but because of previous assignments could not give it immediate attention. He called the wholesaler by long distance telephone, inquired as to conditions, and when the wholesaler offered to have the repairs made by his own workmen without supervision or profit charges, the adjuster immediately accepted the offer. This action resulted in an economical and satisfactory adjustment, as was developed by a check-up while the work was in progress. It was taken by the adjuster because of the reputation of the claimant and was justified by the result.

**Probability.**—The case of a country hotel keeper furnishes an instances of the methods used by men outside of adjustment work to judge probabilities. For a number of years this man operated a hotel and a feeding stable adjacent to a mountain tannery some 20 miles beyond the railroad terminus. A fire

occurred in his neighborhood, destroying a dwelling. In due course a youthful adjuster appeared, driving a pair of livery horses. The adjuster inquired for the whereabouts of the fire and the insured and drove on, later returning for dinner and to have the horses fed. When he offered to pay his bill, the hotel keeper could not change the note tendered. The adjuster was in a quandary for the moment, but suggested that he would leave the amount due with the liveryman at the railroad, to be sent up when convenient or he would pay by check, adding that he felt embarrassed in offering his check to a person who had no means of knowing whether it would be good. The hotel keeper answered without hesitation that the check would be entirely acceptable, and that he would run no greater risk in accepting it than the insurance company ran in employing the adjuster. Thus the hotel keeper accepted the check because the circumstances of the occasion led to the conclusion that it would be good.

On the same principle the experienced adjuster will approve a claim for first class material in a building, which, because of the neighborhood and occupancy, would ordinarily be built of such material. Likewise there are some commodities whose grades are largely determined by the dates they are received for storage, a condition warranting the assumption that when a claim is presented the grades may be accepted, if in keeping with the dates on the warehouse receipts.

**Experience.**—The last of the ordinary tests is experience. The adjuster is constantly observing, comparing, and remembering. Thus he accumulates an increasing store of knowledge, some of which becomes so buried in his memory that he uses it unconsciously. From a constant observation of the three dimensions of objects, the relations of bulk and weight, and the relations of quantity and value, he develops the power of estimating values and damages, sometimes to a remarkable degree. In many cases an inventory or estimate presented by a claimant will be almost instantaneously compared with the scene of the fire, and from past experience will be felt to be correct, or at least reasonable. On the other hand, quantities prices, or even calculations may be felt to be incorrect, long before there is a real check of them.

A case of this sort was presented by an item of high grade screws which had been wet by the discharge of a sprinkler and were afterwards dumped into a bucket of oil to prevent rusting. While the aggregate value stated by the claimant was small, the adjuster felt that the quantity listed was twice as great as it should be. The claimant frankly stated that the quantity had been taken from a stock card, as the screws were too small and too numerous to count. The adjuster suggested weighing the screws, and then weighing a gross of them as a short method of verifying the quantity. To the great surprise of the claimant, the adjuster's guess missed the result of the test by less than 5 per cent.

**Search for Information.**—When hunting for information, the adjuster should continually question all persons who might supply it, or help him find it, except in cases where secrecy is important. The results to be obtained from pushing an inquiry along the line suggested by even a single clue, are often surprising. Much effective work by the police and other investigators is done in this fashion; answers to questions being constantly checked up, and new questions asked based on the findings. How a single piece of evidence may lead to the solution of a problem will be well illustrated by the following incident.

The manager of an insurance company suffered the loss by theft of a blooded dog. The occurrence was investigated by the police, who could do no better than report that, a day or so after the theft, a dog of the same general description had been seen in the principal railroad station of the city at about noon. The manager had in his employ an ambitious clerk, and as this clerk knew the dog, the manager asked him to take up where the police left off. The clerk went to the station, and commenced to question the various employees. At first he seemed to get nowhere, but by persisting he finally found the gateman, who had seen the dog which had been reported to the police. The day and the hour were fixed as nearly as possible, and the questioning turned to what became of the dog. The gateman recalled that the dog was led through his gate, making it probable that he was taken aboard a train leaving shortly after noon.

This train the clerk boarded. Beginning at the baggage car he questioned the members of the crew and all male passengers. One of the latter had noticed the dog, but was not certain when he was taken off the train, suggesting, however that the clerk inquire at a certain station, some 15 miles out. Here the clerk alighted and questioned the ticket agent, but with negative results. He then decided to look up every dog owner in the little village, on the theory that one of these might have noticed the appearance of a strange dog in the neighborhood. Eventually he found the trail. A man, who had seen the dog, described his markings and collar accurately and said that he had seen him taken off the train at a station some 5 miles back. At that station the clerk learned from the ticket agent the whereabouts of the person who had the dog, and in a few minutes found the animal tied up in an outhouse. Thus constant questioning at length brought results.

Some 10 years later the clerk had become an adjuster, and was confronted with the problem of finding a process to clean a semi-glazed salmon brick wall of a 20-story building, the wall having been blackened by dense smoke from the burning of an adjoining structure. The usual sources of information failed to produce anything, whereupon the adjuster had a number of bricks cut out of the wall and shipped to men in other cities asking for suggestions. He also reported in detail to the companies interested, and made it a point to question every builder, painter, and mason he could reach. For some weeks he made no progress, but one day a locomotive engineer and a negro laborer walked into his office and asked for one of the bricks. The laborer spread some paper on the floor, got a bucket of warm water from the service room, opened a package of prepared material and proceeded to scrub clean the brick that had resisted all previous attempts except sandblasting, which, of course, destroyed the glaze. A few days later a letter came from a distant city suggesting a visit to a cleaning concern that was at work on one of the ornate structures there. The adjuster took a brick with him which the head of the concern cleaned with a liquid preparation easier to apply than the preparation of the locomotive engineer. As ample cost data was to be had from the cleaning concern, the cost of cleaning the wall was quickly established to the satis-

faction of all. Here, again, constant questioning led to the information sought.

**Attitude of Claimant.**—Passing from methods of testing statements or developing information, to those of handling persons, the adjuster will find that a claimant will generally be in one of three attitudes at the time of the first meeting. In one, he will be uncertain as to his loss, but confident of fair treatment and willing to cooperate. In another, he will contend for decided views of his own, but will abandon these views, if the adjuster can convince him that they are incorrect, and can overcome any emotional conflict arising during the negotiations. In still another, he will be intent on carrying his point, regardless of demonstration, argument, or appeal.

While individual claimants, even in the same attitude, will require different treatment to prevent arousing antagonism, there are certain methods of negotiation that ordinarily fit the different attitudes and accomplish good results. When these are used with tact and common sense, a high average of success is attained.

**The Claimant without Definite Ideas.**—The claimant uncertain as to amount of loss but confident of fair treatment should be treated fairly and dealt with openly. The adjuster should, therefore, do his utmost when dealing with a claimant without definite ideas to see that no improper figures or positions are suggested which the claimant might adopt. So far as possible, the adjuster should, step by step, help such a claimant toward a true statement of his claim, as by this method a proper adjustment is often reached without the parties being at any time in real disagreement. Following this method, the adjuster commences to negotiate before the insured has presented a claim consequently and does not feel that he must try to maintain definite figures. This method practically eliminates the danger of the adjustment becoming a contest which might prove difficult to bring to a proper ending. To use this method requires, as a rule, some added time and trouble, but the results justify both. If, for instance, a builder or other repair man must be consulted, or outside advice obtained on prices, it is incumbent on the adjuster to be present with the insured at all consultations, and by a display of competence, fairness, and tact, prevent advisers

from suggesting improper figures of procedure. A tradesman will naturally favor his customer in preference to an occasional trader such as the insurance company. To gain favor he may even suggest that, where there is an opportunity, the company should be induced to pay for work or articles that will be needed in the future, if it can be made to appear that these were rendered useless, instead of merely being damaged. Such a possibility can often be avoided if the adjuster will tactfully limit the discussions to the cost of restoration or repair of property actually lost or damaged.

**The Positive Claimant.**—A different method is to be followed when the adjuster finds the claimant to be a person with definite ideas, and ready to contend for them. If an examination indicates that the claimants' ideas are erroneous, the adjuster's task will generally be expedited by selecting one of the several methods ordinarily used in all walks of life for the settlement of differences of opinions. When it cannot be demonstrated that the loss is materially less than the amount claimed, the adjuster must prepare his evidence and present his case, adapting his method to the particular claimant, whose characteristics and surroundings determine how arguments or appeals should be formulated. The claimant may be of the type best handled by turning over to him all estimates, or other data, letting him reach a proper conclusion on his own initiative. On the other hand, he may have little capacity to think alone, and may require much argument to convince him. He may be taciturn or talkative, quick or slow in deciding, all of which will have some bearing on how arguments should be presented to him, or his own arguments answered.

**Answering Faulty Arguments.**—But apart from the manner of negotiation demanded by the personality of an individual claimant, the adjuster will find that many advance the same faulty arguments that can be easily answered. These will come up so often that the answers become mechanical. For instance, many claimants think that the measure of value is the original cost. The conventional questions used to start such claimants thinking differently direct their thoughts to the subjects of replacement cost, the wearing out of property, and the value of gifts. When such questions are shaped to fit the



particular situation, they often open the way that leads toward a proper conclusion. In like manner an argument may often be preceded or followed by a striking illustration which will carry it home. Thus, an engineer listened to a presentation to referees of a claim covering the value of a large machine. The claimant argued that it was in first-class order, that with the application of the specified horsepower it would still give its rated production, and that therefore it was worth the cost of replacement with a new machine. As the engineer was prepared to show that the machine was of a type obsolete at the time of the loss, and consequently worth no more than its price in the second-hand market, he sought for some comparison with which to impress the referees. He had seen a few days before a picture of the original De Witt Clinton locomotive alongside one of the giants used to haul the Twentieth Century Limited. At the close of his own presentation, he produced a picture of the De Witt Clinton, and remarked that it would still haul as many coaches as ever, that it had been kept in excellent repair, and would probably remain effective as long as the New York Central saw fit to keep it in order. But he argued that certainly no one would today build such an engine for actual railroad service, and that the engine itself could be sold only for scrap, or for a curiosity. His method was effective.

**Committing the Claimant to the Facts.**—In many cases the adjuster does not argue with the claimant, but by committing him to known facts establishes a favorable position, which either fixes the amount of the loss, or determines liability. When this is done, the claimant ordinarily comes to terms after thinking over his situation or seeking advice. A case of this sort resulted from a mercantile fire in iron-safe-clause territory. The merchant admitted that the fire occurred after the closing of business for the day, that he had left his inventories and some of his other records outside of his safe, and that they had been burned. The adjuster very frankly told him that under the circumstances no claim could be enforced, and that the company would be within its rights if it elected to refuse payment. He then prepared a written statement of what the claimant had just told him, asked the claimant to read it over and if it was correct to sign it. This the claimant did. In the whole tran-

saction there was neither argument nor appeal, the adjuster realizing that none was necessary, as the facts amply proved that no liability existed under the policies. The signed statement merely recorded what the insured admitted, and was forwarded to the company with a full report and request for instructions. The insured eventually proposed a compromise which the company accepted.

**Appeals to the Emotions.**—Another method effective with certain types is a direct appeal to the emotions. This method is also serviceable in cases in which the amount of loss is in doubt, and the end sought is a reasonable compromise. Appeals to the claimant's sense of fairness, to the desire to appear reasonable, to meet concession with concession, all play on the same feeling. If this feeling is strong in the claimant, it will often move him to cooperation or accord. In some cases it may be necessary to arouse self-interest. This should be done by presenting the advantages to be gained by accepting the figure or method of settlement offered; or, in negotiating with the grasping claimant who must at times be dealt with harshly, the troubles he may expect to encounter if he continues to be unreasonable. Thus a retail merchant with a damaged stock on his hands may in some localities greatly stimulate his business by a properly handled fire sale. Therefore, if the adjuster finds he is making little headway toward settlement by use of ordinary demonstration and argument, he may well abandon these and turn the merchant's attention to the probable outcome of a fire sale and the new customers to be attracted by it. With the claimant who attempts to overreach, it is often effective to suggest the expense, delay, and uncertain outcome of the litigation he threatens. To do so may be distasteful, but sometimes it is the only method that will give results.

**Impossible Claimants.**—There are some claimants on whom argument and appeal are alike wasted, the pig-headed and the unscrupulous. These are to be put under pressure, and kept under until they yield. The first type cannot understand decency, the second is apt to think it indicates weakness. Severity, delay, studied demands difficult to comply with, but authorized by the policy, may at length bring these types to terms. It is unfortunate that they succeed in getting policies.

**Failure of Adjuster's Efforts.**—In spite of all efforts and methods, the adjuster will fail in a number of his attempts, and on leaving the claimant, must consider the advisability of employing assistance. Before doing so, however, it will be well to give the claimant a chance to consider the final offer at a time when the adjuster is not present, as there is always a chance that personal antipathy or antagonism prevents the claimant from accepting a fair or advantageous offer. Something in the adjuster's personality may cause the particular claimant to resist every proposal, even those he inwardly agrees to and would accept but for the interference of his feelings. In order, therefore, to see whether this is the case, the adjuster may well try it out by writing the insured some days after his departure, repeating his offer in carefully selected language, and enclosing either an adjuster's agreement or a proof of loss for the claimant to execute. In a number of cases the document will come back completed and the controversy will be ended.

**Introducing a Third Party.**—The idea underlying the method discussed in the preceding section is also used when the adjuster, after exhausting his resources, calls in some third person to help him. Often this person will do no more than restate the offer already made, but will nevertheless bring about its acceptance. Two or more adjusters working on the same loss can often make rapid headway by intelligent use of each other when the final negotiations are started.

**Use of Policy Requirements or Options.**—When the last effort fails, the unwarranted demands of a claimant must still be resisted, and the policy contract enforced if possible by using one or more of its requirements or options. The right selection of option or requirement in such a case may checkmate an importunate claimant, or even bar recovery by one who has avoided his policy but attempts to brush aside its conditions. It is important that the adjuster develop all the generalship of which he is capable to handle successfully this phase of his work. To do so he should add to a familiarity with the policy itself, an elementary knowledge of trial procedure and the preparation of cases for trial, as what he does may eventually come before the courts if the claim is litigated.

It will not be amiss to emphasize by repetition some requirements already discussed. In all cases the insured must protect the property from further damage, separate, put in order and inventory personal property, and file proof of loss. Some claimants seek to evade the performance of these requirements. Others attempt to obscure the situation, and object to producing books and papers or plans and specifications, until these are specifically demanded in writing, and the demand followed up. All of the preceding requirements can at times be enforced in a manner calculated to make the overreaching claimant somewhat less confident of gaining his end.

In a certain number of doubtful or fraudulent cases, the insured becomes a fugitive from justice, and leaves his claim in the hands of an assignee, or in other cases for later presentation by a receiver or trustee in bankruptcy. In any of these cases collection can be effectively delayed by a demand that the insured appear at or near the scene of the loss, and submit to examinations under oath. Ordinarily he will fail to appear being afraid of arrest. Trouble may arise because of commingled salvage. In some claims for cotton in public warehouses, a group of claimants will attempt to make excessive collections, or some local interest will attempt to unload on the companies the expense of an unwarranted receivership for handling the salvage. In such cases an able adjuster will not hesitate to propose one of two courses. If the claimants will be reasonable, and allow the adjuster to control the handling of the salvage, he will settle by paying the respective sound values as adjusted, taking assignments to the respective interests in the commingled salvage. On the other hand, if excessive claims are to be insisted on, or the salvage dissipated by unnecessary receivership proceedings, he will refuse to make any adjustments until the tedious work of determining the respective interests in the commingled salvage has been finished. He will then pay only the loss sustained, leaving the claimants to collect their salvages from the receivership, when and as they may. A clear presentation of the two alternatives will usually be effective.

Claims under policies void as to the insured but valid as to the mortgagee can often be blocked, so far as the insured is concerned,

if the adjuster can come to terms with the mortgagee, and thus deprive the insured of his support.

Excessive claims may be met by a tender of repair or replacement, through this is much too great a risk for most cases, the better course being to gather good evidence and await suit, or demand appraisal, as circumstances dictate. In choosing an appraiser to act after adjustment negotiations have failed, only the most capable must be chosen, as the atmosphere of the appraisal will be hostile, and the appraiser will have a difficult task.

The last requirement usually invoked is the right to examine the claimant under oath. He may by this procedure, be committed to known facts, may be required to reveal what he has previously concealed, or may be led to infer that the person examining him is in possession of evidence that makes his case hopeless. The use of this requirement is often highly effective, and in spite of the growing practice of using attorneys to enforce it, can often be used by adjusters with excellent results. The following instances are good examples.

Two adjusters working on a mercantile loss saw the claimant slyly unpin a freight bill from an invoice, and conceal the freight bill among other papers. In time the adjusters managed to get hold of the bill, and found that the goods had really been delivered to another town where the merchant operated a branch store. In due course one of the adjusters put the claimant under oath and, among other questions, asked him about the freight bill. The claimant burst into a profuse perspiration, his lawyer adjourned the examination, and in time the claim was compromised for considerably less than had been at first asked.

In an examination in another case, held to determine whether liability existed because of doubtful compliance with the terms of the iron-safe clause, the secretary of the claimant corporation was compelled to admit, when questioned by the adjuster, that certain sales records had been left out of the safe on the night of the fire, and could not thereafter be located. This admission established a violation of the policies.

In still another case the adjuster was satisfied that a certain record was spurious, and had been written up after the fire. He held an examination, and so framed his questions as to intimate this to the insured. The insured's trustee in bank-

ruptcy afterwards sued on the policy, but when the insured took the stand to testify, he feared what the defense might produce, and consequently admitted on cross-examination that he had written up the suspected record after the fire.

**Preparation for Litigation.**—The final resort, when negotiations fail, is litigation, an uncertain and expensive course of action. Careful preparation for trial and a wise selection of counsel will, when litigation is unavoidable, insure the best average results. Preparation includes an avoidance of waiver or estoppel, as well as the gathering of evidence, for an otherwise perfectly prepared case may be lost on an allegation of waiver, supported by just enough testimony on the insured's behalf to carry it to the jury. It is all important that the adjuster handling doubtful claims possess a "competent knowledge of the laws of that society in which we live" in order that, after exhausting his own resources to defeat or reduce an unwarranted claim, he may place its defense in the hands of the company's attorney, with every point covered and with the record of his dealings with the insured free from actions committing the company or waiving its grounds for resistance.

**Notation of Data.**—Preparation should commence with the first investigations of the claim. Whether or not litigation is then expected, the data passing through the adjuster's hands should be so noted that the notes will enable him on future occasions to recall how the data compared with the property, or how the property itself appeared. If the claim gives early promise of getting into court, it may be well to make separate sheets for the separate items and to note on the sheets in great detail whatever information will be of service in case of trial. In one now famous case the attorney suggested to the adjuster that a schedule including a lot of ill-selected and almost valueless machinery be rewritten, allowing half a page between each entry, and that following the entries the adjuster accurately describe each article after examining it. When the claimant finally sued he was so successfully cross examined from the prepared schedule that the jury returned a verdict within an hour of exactly the amount offered by the adjuster.

**Reports and Testimony.**—To supplement original estimates, schedules, statements, or other data, the criticisms of such outside

assistants as builders, engineers, salvors, accountants, or others should be put in writing as memoranda, or preferably as signed reports, and kept safely. Likewise the statements of witnesses should be written out and filed. Such statements are often to be had only by patient and persuasive work on the part of the adjuster, as in many cases the persons able to give the testimony are neighbors of the insured and dislike to appear against him. In small towns there will often be a factional division of the population, one faction being hostile to the insured. Care must be taken to make a thorough examination of witnesses offering testimony under such conditions, as it is often inaccurate and inspired by animosity. There is some danger in taking written statements from witnesses. While it is ordinarily best to hear their stories, and thereafter to record these in the shape of affidavits, signed statements or letters, there are some who should only be asked for oral statements these to be made in the presence of a reliable third party. In some cases a witness who signs a statement immediately talks about it, and as a result gets the insured on his trail to secure a copy of it.

**Function of Adjuster at Trial.**—It is seldom wise for the adjuster to testify. Ordinarily it is far better to provide credible, disinterested witnesses to present any necessary testimony, and for the adjuster to be present at the trial as the defendant's representative, completely informed on the case and ready to aid the attorney in any manner possible.

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## APPENDIX A

### SCHEDULE OF INSURANCE AND APPORTIONMENT OF CLAIM<sup>1</sup>

SCHEDULE OF INSURANCE AND APPORTIONMENT OF CLAIM						
Loss No. _____		Date of Fire _____				
Assured _____						
Location					BUREAU REPRESENTATION	
Policy Number	Commencement	Expiration	NAME OF COMPANY	Insured	Paid	
1						
2						
3						
4						
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29						
30						
31						
32						
33						
34						
TOTALS						
REMARKS _____						

Page 1 of Schedule.

<sup>1</sup> Prepared by Jos. J. Windle for Southern Adjustment Bureau.





## APPENDIX B

### ADJUSTER'S REPORT BLANKS OR QUESTIONNAIRES, AND FILES

NO. _____	
A.—ASSURED _____ <small>(State whether co partnership or corporation and give names of partners and officers.)</small>	State race and nationality of Assured.
B.—FIRE OCCURRED AT _____ M. _____ 192____, which Assured alleges originated <small>(Give cause here exactly as stated in proofs.)</small>	
C.—ADJUSTER'S THEORY AS TO ORIGIN.	
D.—OCCUPANCY _____ <small>State by whom and for what purpose. State race and nationality of occupant.</small>	
E.—TITLE AND INTEREST. _____ <small>(State Assured's title and changes, if any since policy was issued.)</small>	
F.—INCUMBRANCES. _____ <small>Give amounts, dates when due and to whom payable. State what Loan Payable Clauses attached to Policy, i. e., "Loan Payable Clause" or "Standard Mortgage Clause."</small>	
G.—SALVAGE Will there be any? _____ Show on loss statement.	
H.—AUTOMATIC SPRINKLERS. If premises so equipped, submit written report	
I.—SUBROGATION. Should subrogation receipt be taken? _____ If yes, submit full written report.	
J.—PREVIOUS FIRES. Does Assured admit having had any? <small>(If so, give particulars, location and date.)</small>	
K.—Have you personally examined and checked Policies? _____ If not, why? _____ <small>(If policy claimed lost or destroyed furnish Assured's written statement.)</small>	
L.—PROOFS EXECUTED _____ 192____, by _____	
M.—PAYMENT. (Cash? _____ At Maturity? _____ or discounted at _____ %)	
Drafts.—To whose order should drafts be drawn?	
Is payment to reduce Policy _____ or cancel without return premium? <small>(This should be agreed to with Assured when proofs are executed.)</small>	
N.—(1) Was Assured reasonable in making claim? _____	
(2) Would you recommend Assured for future acceptance? _____	
(3) Would you recommend Risk for future acceptance? _____	
(4) If not, why? _____	
_____ 192____	_____ SOUTHERN ADJUSTMENT BUREAU

Adjuster's report, Southern States.

## AJUSTER'S CARD NEW YORK CITY

Assured _____	
Portions occupied by Assured _____	
Construction (Br., Fr. or FP) _____	
Fire _____	_____ 38
Cause _____	
Originated on premises of Assured? _____	
Owner or Tenant _____	
Of other Tenant _____ (If so give name of tenant and business)	
Floor or place of origin _____	
If fire originated in another building, Distance in feet from risk _____	
Construction (Brick, frame or FP) _____	
Occupancy _____	
Ownership _____	
Protection	{ Hydrant within 500 ft? _____ { Fire station within 1/2 mile? _____
<b>CLAIM</b>	
Sound value	Loss
Buildings \$ _____	\$ _____
Contents \$ _____	\$ _____
Of fire and claim it is reported that _____	
_____	
Previous Business _____	
- Residence _____	
- Fires _____	
- Bankruptcies _____	
Continue on risk? _____	
Salvage? _____	
Subrogation? _____	

## ADJUSTER'S ENVELOPE NEW YORK CITY

Location			
Assured			
Assigned	Date		
Agency			
Agent or Broker			
Public Adjuster			
Policy No.	Company		
Date	Expires		
Building	\$		
Fixtures	\$		
Stock	\$		
Patterns	\$		
Total	\$		
Property			
Payee			
Date of Loss	Estimate \$		
Proofs Received			
Other Insurance			
COMPANY	AMOUNT	PAYS	
	\$	\$	
	\$	\$	
	\$	\$	
	\$	\$	
	\$	\$	
	\$	\$	
	\$	\$	
Proofs Mailed to			
Date			
Memoranda			
Premiums Paid			
Violated			



EXPENSE			
T. T. and L.	-	-	\$ .....
Legal	-	-	\$ .....
Appraisal	-	-	\$ .....
Expert	-	-	\$ .....
Machinist	-	-	\$ .....
Contractor	-	-	\$ .....
Salvage Co.	-	-	\$ .....
Railway	-	-	\$ .....
Pullman	-	-	\$ .....
Hotel	-	-	\$ .....
Livery	-	-	\$ .....
Net Expense	-	-	\$ .....
Services	-	-	\$ .....
Total	-	-	\$ .....
General Overhead	-	-	\$ .....
Final	-	-	\$ .....

Loss File (Page 2).



<b>Agency</b> _____	
<b>Full Name of Assured</b> _____ <small>If a corporation give names of officers. If not a corporation give names of principal owners or interested parties.</small>	
_____	
_____	
<b>LOCATION OF RISK</b> (Street _____ County _____ { No _____ City or Town _____ State _____	
<b>OCCUPANCY, SOLE?</b> _____ If not, portions occupied by Assured _____	
_____ If partial occupancy, give floors or portions of building.	
<b>Construction (Brick, Frame or Fire-Proof)</b> _____	
<b>FIRE OCCURRED AT</b> _____ M. _____ 192____, which Assured alleges originated <small>Give cause here exactly as stated in proofs.</small>	
<b>Building was Occupied as follows:</b> _____	
_____	
<b>Exceptions to be stated in proof as follows:</b> _____	
_____	
<b>CAUSE OF FIRE (full detail)</b> _____	
_____	
<b>Originated on Premises of Assured</b> _____	
<b>Of other Tenant?</b> _____ If so, give Name of Tenant and Business.	
<b>If caused by Lightning, was building property rodged or not rodged?</b> _____	
<b>Floor or place of origin?</b> _____	
<b>If fire originated in another building—</b> _____	
<b>Distance in feet from risk</b> _____	
<b>Construction (brick, frame or fireproof)</b> _____	
<b>Occupancy</b> _____	
<b>Ownership</b> _____	
<b>PROTECTION—Is public hydrant within 500 feet of Risk?</b> _____	
<b>Is public fire station within 1 1/2 miles of Risk?</b> _____	
<b>WERE LOSS AND CLAIM SATISFACTORY?</b> _____	
<small>IF NOT SATISFACTORY GIVE DETAILS BELOW VERY IMPORTANT</small>	
<b>OF FIRE</b> (It is reported that _____	
_____	
<b>OF CLAIM</b> It is reported that _____	
_____	
<b>Previous business of Assured understood to have been</b>	
" residence " " " "	
" fires " " " "	
" bankruptcies " " " "	
" or business grounds " " " "	
<b>Has Assured Moved, If so, Where?</b> _____	
<b>Do you recommend that we continue insurance on this Assured?</b> _____	
<b>Is any salvage to come?</b> _____ <b>Have we any Subrogation Rights?</b> _____	
_____	
<b>Adjuster for Assured.</b> _____ <b>Adjuster for Company</b> _____	
<b>Number of Companies on property which this policy covers?</b> _____	

AGENCY _____	
A -- ASSURED	
B -- Fire Occurred at _____	Which Assured Alleges Originated _____
C. ADJUSTER'S THEORY AS TO ORIGIN.	
D -- OCCUPANCY	
E -- TITLE AND INTEREST.	
F INCUMBRANCES.	
G SALVAGE Will there be any? _____	
H SUBROGATION Should Subrogation Receipt be Taken? _____ If yes, submit full written report.	
I PREVIOUS FIRES. Does assured admit having had any? _____	
J HAVE YOU PERSONALLY EXAMINED AND CHECKED POLICIES? _____	
K. PROOFS EXECUTED _____	
_____	
_____	
L DRAFTS. To whose order should draft be drawn? (Cash Payment? _____ at Maturity? _____	
Is Payment to Reduce Policy _____ or Cancel without Return Premium?	
M -- (1) Was Assured Reasonable in Making Claim? _____	
(2) Would You Recommend Assured for Future Acceptance? _____	
(3) Would You Recommend Risk for Future Acceptance? _____	
Office at _____	
_____ 192 _____	_____ Adjuster

Loss File (Page 4).

## APPENDIX C

### NON-WAIVER AGREEMENT

192

**It is Hereby** mutually stipulated and agreed by and between \_\_\_\_\_

party of the first part, and the Insurance Companies whose names are signed hereto, party of the second part, that any action taken, request made, or any information now or hereafter received, by said party of the second part, in or while investigating and ascertaining the cause of fire, the amount of loss or damage or other matter relative to the claim of the said party of the first part, for property alleged to have been lost, or damaged by fire on the \_\_\_\_\_ day of \_\_\_\_\_ 192\_\_\_\_ shall not in any respect or particular change, waive, invalidate or forfeit any of the terms, conditions or requirements of the policies of insurance of the party of the second part held by the party of the first part or any of the rights whatsoever of any party hereto.

The intent of this agreement is to save and preserve all the rights of the parties and permit an investigation of the claim and the determination of the amount of loss or damage in order that the party of the first part may not be unnecessarily delayed in \_\_\_\_\_ business, and that the amount of \_\_\_\_\_ claim may be ascertained and determined without regard to the liability of the party of the second part and without prejudice to any rights or defenses which said party of the second part may have.

## NON-WAIVER AGREEMENT

Whereas, an early ascertainment of the amount of both Sound Value and Loss or Damage, if any, is desired by both parties to this agreement:

It is hereby mutually understood and agreed by and between

\_\_\_\_\_ per \_\_\_\_\_  
 of the first part and the \_\_\_\_\_ of  
 \_\_\_\_\_ and other Insurance Companies signing this agreement, or assenting hereto, part \_\_\_\_\_  
 of the second part, that this agreement and/or any action taken by said part \_\_\_\_\_ of the second part in investigating the cause of fire and/or investigating and ascertaining by appraisalment or otherwise the sound value of and the amount of loss and damage to the property, described in the Policies of the fire Insurance Companies, situated \_\_\_\_\_  
 caused by fire alleged to have occurred on \_\_\_\_\_  
 shall not waive or invalidate any of the conditions of the Policy \_\_\_\_\_ of the part \_\_\_\_\_ of the second part, or any forfeiture thereof, and shall not waive or invalidate any rights whatsoever of either of the parties to this agreement.

The intent of this agreement is to preserve the rights of all parties hereto and provide for an investigation of the fire and the determination of the sound value and the amount of the loss or damage, without regard to the liability of the part \_\_\_\_\_ of the second part.

Signed in duplicate, this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_

## APPENDIX D

### DEMAND THAT INSURED PROTECT PROPERTY FROM FURTHER LOSS

Dear Sirs:

1. From preliminary inspections of the burned-over portion of your premises, we are satisfied that such machinery and equipment as is now standing in the area of the destroyed building will be much further damaged if left exposed to weather, particularly so in case of heavy rains.

2. At this time your insurers have received notice of loss as required by Line 67 of their policy contracts, reading,

"If fire occur, the insured shall give immediate notice of any loss thereby, in writing,"

but as representatives of your insurers, we do not find that you are making any effort to protect the property from further damage, an action required by Lines 67 and 68 of said contracts, reading,

"shall . . . protect the property from further damage."

3. We, therefore, put you on notice that, unless you commence promptly and prosecute with all reasonable diligence, effective efforts to protect the property from further damage, we shall be compelled to abstain from any further negotiations of investigation and adjustment under the item of your policy covering said equipment, and report to your insurers that you refuse to act as required by the contract conditions heretofore quoted.

4. We further notify you that, as the policies provide there can be no abandonment of the property to the insurers, see Lines 5 and 6, reading,

"But there can be no abandonment to this Company of the property described,"

there is no duty incumbent on your insurers to protect the property on their own account.

5. You can readily see that should it become impossible for us to agree on the amount of loss under the item of your policy covering machinery and equipment, making it necessary for us to determine this amount by appraisal, the property should be submitted to the appraisers in the condition that it was immediately following the fire.

6. As we do not intend to waive, or abandon our right to appraise should we be unable to agree, we notify you that any action on your part which would operate to obstruct or hinder a proper examination of the property by appraisers will be looked upon as an action terminating the liability of your insurers.

Yours very truly,

## APPENDIX E

### SPECIMEN OF ADJUSTER'S NOTES COVERING BOOKS PRODUCED FOR EXAMINATION

CLAIM No 10,000

IN RE CLAIM A/C JOHN DOE  
253 ROE ST, NEW YORK, N. Y.  
FIRE MARCH 15-1928

3-12-28 Visited scene of above fire, found on premises patrolman; assured's adjuster, Richard Roe, assured's brother, James Doe and assured. In presence of those noted above assured produced the following books, which I initialed on flyleaf after taking description noted below

1. Black, canvas-bound book, approximately 8 x 10 inches, with imprint "PAYABLE" on outside and sticker of Blank Bros., Stationers and Printers, No. 100 White St, on inside of front cover, together with printing reading in part "National Bill Book No. 608" on said cover. Contains record of trade acceptances and notes payable, and in the back a record of insurance policies. First entry in front of book being, "Trade Acceptance payable, Roe Bros. to National Trust Co., Broadway and White St, Nov 13, 1926." First entry in back of book being "Insurance 1926-27, John Doe."

. . . . .

2. Canvas-bound book with entry on inside of front cover:

"Sales Returns Page 300."

"Purchases and Returns, Page 100."

"General Journal, 200"

Contains folios Nos. 1 to 300 inclusive. First entry on folio No. 1 dated Oct 16, 1928. Last entry on folio No 300 dated Nov 1, 1928. "Sales Returns Nov 31, 1928" top of folio No. 300 Book also contains "Classified Sales" for parts of 1926 and 1927

. . . . .

3. Loose-leaf binder stamped in gold on outside

"Purchase Ledger

John Doe Corporation"

The gold in the letters "rporation" being obliterated but the imprint of same is legible. Contains assureds' accounts with their creditors

. . . . .

## CLAIM No 10,000

4. *Canvas-bound book (National No. 814) bearing on flyleaf*

*"John Doe  
General Ledger."*

*Contains index A to Z and folios Nos. 1 to 136 inclusive Opening entry on folio No. 1 (on top folio No. 1, "Cash in Bank—Manufacturers Trust") dated Oct 28, 1925 Last entry on folio No. 133 (on top folio No 133 "Profit and Loss") dated Dec. 31, 1925.*

. . . . .

5. *Canvas-bound book, printed in black on center of back*

*"Journal,  
John Doe"*

*Contains folios Nos. 1 to 155 inclusive First entry on folio No. 1 (on top of folio No 1, "April 1927") dated April 1, 1927 Last entry on folio No. 34 (on top of folio "March, 1928") dated Mar 1, 1928 This page bears rubber-stamp imprint of "Henry Blank, Certified Public Accountant, Audited per A B"*

. . . . .

6. *Canvas-bound book (front and back covers badly charred) marked on inside of front cover, "General Ledger." Contains folios Nos. 1 to 300 inclusive. First entry on folio No 1 (on top of folio No. 1, "Oct 28, 1925"). Last entry on folio No. 300, which appears to be "Accounts Receivable as of March 1, 1926" Numerous pencil figures on flyleaf between folio No 300 and back cover of book, which apparently are an analysis of accounts receivable and bad debts.*

. . . . .

7. *Canvas-bound book, printed on center of back,*

*"Return Merchandise Book,  
John Doe"*

*Contains folios Nos. 1 to 212 inclusive. First entry on folio No 2 (on top of folio No. 2 "Return Sales, April 1927") dated April 1, 1927. Last entry on folio No. 28 (on top folio No. 28, "March, 1928") dated Mar 1, 1928 Folio No. 28 bears rubber-stamp imprint of "Henry Blank . . ." as noted above.*

. . . . .

8. *Canvas-bound book, printed on center of back,*

*"Sales Classification,  
John Doe"*

*Contains folios Nos 1 to 312 inclusive. First entry on folio No. 2 (on top of folio No 2, "April Sales Classified 1927"). Last entry on folio No. 36 headed "March, Return Sales" Folio No. 36 bears rubber-stamp imprint of "Henry Blank . . ." as noted above.*

. . . . .

## CLAIM No. 10,000

9 *Canvas-bound book, printed on center of back*

*"Purchase Book,  
John Doe"*

*Contains folios Nos. 1 to 312 inclusive. First entry on folio No. 2 (on top of folio No. 2 "Purchases, April, 1927") dated April, 1, 1927. Last entry on folio No. 20 (on top of folio No. 20, "Purchases, January, 1928") dated in red ink, "January 11." Folio No. 20 bears rubber-stamp imprint of "Henry Blank . . ." as noted above.*

. . . . .

10. *Canvas-bound book (White Bros., Pattern No 1090). Folios Nos. 1 to 153 inclusive (Folio No 153 not ruled). On flyleaf,*

*"John Doe,  
Journal 1926, page 13,  
Credit-return Sales, page 85."*

. . . . .

11. *Canvas-bound book ("Vernon Columnar Book, No 59") Contains folios Nos 1 to 152 inclusive. First entry on folio No. 2 (on top of folio No. 2 "December, 1927") dated Dec 1, 1927. Last entry on folio No. 21 (on top of folio No. 21 "March, 1928") dated Mar 8. Used as cash book.*

. . . . .

12. *Canvas-bound book ("No. 59-15 Opp. 8 Col." on sticker of Blank Bros. pasted on inside of front cover) Contains folios Nos 1 to 152 inclusive. First entry on folio No. 2 (on top of folio No. 2 "May, 1926"). Last entry on folio No. 151 (on top of folio No 151, "November 1927"). Folio No. 151 bears rubber-stamp imprint of "Henry Blank, Certified Public Accountant, Audited per M. H." Used as cash book.*

. . . . .

13. *Sheets of yellow paper containing date column, a column for description, and four columns for figures. First sheet headed,*

*"Summary of Inventory, Dec. 31, 1927,"*

*shows a recapitulation of folios Nos 1 to 14 inclusive in ink totaling, "\$21,271.45". First sheet bears rubber-stamp imprint of "Henry Blank . . ." as noted above. The other fourteen sheets purport to represent details of inventory of Dec. 31, 1927.*



## APPENDIX F

### SALVAGE OPERATIONS

Reproduced by permission from Report of Committee on Salvage Operations (1927) National Fire Protection Association

The realization that a large percentage of fire waste is actually a water loss has resulted in an effort on the part of those actively engaged in fire-fighting, to improve loss records by reducing water damage. The common method used to accomplish this purpose is to spread waterproof blankets or salvage covers over stock and to direct excess water to points where it can readily be drained. Such activities constitute the part a progressive fire department should take in practicing salvaging operations.

A number of organizations have been practicing salvaging operations or methods for years and have reached such a stage of development and proficiency that their work can truly be called a science. The information and experience these organizations—fire departments, salvage patrols, adjustment and appraisal companies—have obtained, have been drawn upon in compiling this preliminary report. The Committee has, however, refrained from discussing fire-fighting methods except as an aid in making clear a point otherwise possible of misunderstanding.

Accordingly, the scope of work by the Committee has been limited to a discussion relative to salvage principles, including methods of storing goods, the effect of water on various stocks, and the probable salvage value of various types of merchandise that have passed through exposure to fire, water, and smoke, with a view to preparing suggestions, for the guidance of merchants, manufacturers, public officials, and the general public, that will aid in reducing the fire waste

### SALVAGE PRINCIPLES

Since the intensity of the fire and therefore the amount of water, smoke, and debris will vary for different fires, the amount of salvage possible for stocks of like kind will not always be the same. There is, however, a definite relation between certain characteristics of merchandise and the salvage to be expected. These characteristics are generally analyzed under the headings: Removability, Combustibility, and Damageability.

**Removability.**—The element of time enters largely into any fire. The period it would take for fire to spread from one point to another can be utilized by removing articles, which would otherwise be damaged, to some point of safety. This is a natural impulse on the part of the individual,

but is seldom practiced in a systematic way except by well-trained and highly developed organizations. Some fire departments make it a point to move or otherwise protect merchandise before directing water streams, when events permit. It is common for salvage organizations to carry stock to adjoining buildings, an operation that the standard fire-insurance policy recognizes as good practice in a clause protecting property so removed.

Removability is of course dependent on size and weight and is probably of greatest value when considered in connection with grade floor occupancies. However, it is a factor wherever salvage work is possible as it permits grouping of stocks so that they may be protected with a salvage cover.

**Combustibility.**—The ease with which material will burn or its susceptibility to burning enters largely into the amount of salvage one may expect. The combustibility of the stock is not always dependent on the stock itself, but may be largely contributed to by the way the stock is wrapped, boxed, or packed. Another factor is the amount on hand, whether this is spread out for display or piled in quantities as in warehouses. A spread-out stock may increase the area affected by fire. Improperly piled merchandise may, with certain stock, increase the danger of spontaneous ignition; or, because of concealed spaces and inaccessibility be subjected to great damage for the reason that fire in such piles of stock cannot be easily located or reached, nor is the stock as easily protected from a salvage viewpoint.

Irrespective of the method of packing, warehousing, or displaying, stocks are usually considered as in one of five classes of combustibility:

1. Slow burning or incombustible
2. Moderate burning
3. Free burning
4. Intense burning
5. Flash burning.

As was previously remarked, combustibility will be largely governed by the material used in packing and some stocks should grade as more hazardous than others because of the nature of this feature. When stocks are mixed in large quantities the extent of combustion will usually be dependent on the stock of highest combustibility.

**Damageability.**—The extent of damage possible will be dependent on the method of packing or wrapping and the degree of protection furnished by such covering. The inherent ability of certain stocks to withstand combustion, heat, water, smoke, falling debris, breakage, dirt, and the removability of the stock are factors affecting salvage. For purposes of this discussion stock can be considered as divided into five classes of damageability:

1. Low.
2. Medium.
3. High.
4. Extra high.
5. Indefinite (applied to a mixed stock or a constantly changing stock).

One can conclude from the foregoing that removability, combustibility, and damageability are largely dependent on the methods used in displaying,

storing, and packing. In order that goods be salvaged it is essential that they be arranged or stocked so that they can be easily and quickly protected and there are certain other common sense precautions that should be complied with.

## METHODS OF PROTECTING GOODS

Generally speaking, merchandise in transit, in warehouses, or on display should be protected against water damage and packed in units of a size capable of being readily moved and handled, in containers of sufficient strength to maintain the integrity of the protection under conditions met in practice, bearing in mind that not only may it be exposed to rains and dampness, but also water used at fires. An ideal container should be strong, waterproof, resist smoke, be readily handled, and be fire-resistive.

Waterproofing will necessarily involve the use of oil, wax, asphaltum, or other compounds. The hazard due to an accumulation of such treated wrappings when unpacking, their combustibility, and effect on various merchandise must be considered. It is apparent that there is an opportunity for improving from a salvage viewpoint, the packing of shoes, rugs, hardware, paper, furniture, and a number of other articles.

**Warehousing or Storage.**—In order to facilitate salvage certain methods described below should be followed in the storage of merchandise not immediately needed for display or sale.

Water has a tendency to flow down side walls, regardless of type of construction. For this reason, stock should not be piled against walls or columns. There is a fairly free flow of water through most floorings and such water collects in pools and puddles. Because of this all stock should be skidded and not stacked directly on the floor.

A salvage cover as commonly used is either 12 by 18 feet, or 14 by 18 feet and when stocks are piled they should never cover an area greater than one of these covers. To facilitate spreading covers a space of at least 3 feet should be left between the top of the stocks and the ceiling. Where stacks are high, the piles should be stable with some means provided, such as staggering boxes, so that a man can climb to the top of the stack to spread covers.

Regulations for the storing and handling of various articles such as combustible fibers and rolled paper require certain aisle space to provide for expansion due to absorption of water, for removal of exposed stock, etc. Accessibility is a requirement in any case and stock should be piled with a view to permitting easy access and rapid removal, limiting concealed spaces, avoiding the formation of spaces which would act as flues, and wherever practicable should be so arranged that stocks of relatively high combustibility are separated by stocks of lower combustibility.

**Displaying.**—A merchant's main purpose is to so display his merchandise that it will attract sales. Stock in frequent demand is usually located where it can be easily and quickly purchased and stocks requiring more time for

selection, such as hats, clothing, etc., are usually in convenient though less accessible places. In most large stores, storage and workrooms are on the top floor and shipping rooms in the basement.

While the sales viewpoint will dictate the general arrangement and display of merchandise in stores, there are opportunities to arrange or display goods in a manner that will increase salvage in case of fire without interfering with sales. For instance, there is no reason why stock should not be separated according to combustibility and at points advantageous from the standpoint of fire and water damage. Regardless of the association of different classes of merchandise, there is a very apparent opportunity to improve conditions under which stocks are now displayed for sale.

**Shelving.**—Shelving should be so constructed that goods cannot be pushed back against the wall. A space of 2 inches between the wall and the back of the shelves should be maintained. This can be done by closing the back of the shelving with wire netting. The top of shelving should be kept free from accumulations of boxes or similar things and should have a clearance to the ceiling sufficient to permit a salvage cover being placed so that it can hang down the back of the shelving, forming a drip, for at least 2 feet. Where the foregoing is not complied with and shelving uprights are carried to the ceiling in order to wedge such shelving in place, the space between uprights should permit a cover to be placed so as to hang down the back. This will require at least 12 feet between uprights.

A rigid waterproof roof extending from the wall to 6 inches in front of the shelving is recommended, with a wooden apron at least 4 inches in depth at the vertical line of the front edge of the shelving. This roof should be pitched not less than 1 inch to the foot.

**Cases, Cabinets, and Display Equipment.**—As a general thing, display furniture should be sturdy; enclosing cases and cabinets should be watertight; shelving and counters should be designed to permit easy covering with salvage blankets; and all open trays and counters should be covered at night with a light, waterproof dust cover.

*Cases* in which goods such as jewelry are commonly displayed should be watertight.

*Cabinets* are often used to enclose cloaks, furs, and expensive garments; ordinarily these are glass enclosed, and cover considerable area. The roof or covering of such cabinets and of dressing rooms should be watertight and strong enough to hold a man's weight.

*False Ceilings and Decks* are commonly erected to support lighting fixtures at a height simulating actual conditions of installation. They should be sturdy and watertight.

*Racks* used to support dresses and suits on hangers should be so constructed that if a cover is thrown over them the cover will not rest on the shoulders of the garments as this occasionally results in soiling the garments. Racks should be so constructed that they are not easily tipped over.

*Aisle Trays and Tables* should be easily moved, should not be capable of being easily upset, and should not be filled to overflowing. In the event of fire these aisle tables will be shoved out of the way and excess stock is

likely to be spilled. At night they should be covered with a light dust- and waterproof cover.

*Counters or Tables* displaying china and glassware which is more subject to breakage than any other damage are covered with the intent of protecting such stock from falling plaster and other debris. The tables on which glassware and china is displayed should be equipped with a pipe frame over which a cover can be thrown without disturbing the stock.

*Boxes or Containers* used should be able to withstand a reasonable amount of water. Bolt goods, silks, woolens, linens, and similar fabrics should be wrapped in a waterproofed paper. The same precautions apply to paper and hardware. In general, it may be said that all goods carried in some form of container or wrapping should have the container or wrapping of a grade capable of withstanding the smoke and water to which they may be subjected at time of fire.

### THE EFFECT OF FIRE, WATER, AND SMOKE ON VARIOUS ARTICLES OF MERCHANDISE

In considering the effect of a fire on various stocks it is generally conceded that the greatest salvage value will ordinarily be found in staples for the reason that these can be reclaimed and have a market even at a reduced price. This is particularly true for dry goods. Novelties, generally bought for gift purposes, lose almost their entire value when damaged. Among the many things affecting salvage value is the fashion of the day or style; a change of style may reduce the value of an article to practically nothing. Shopwear, indicated by faded colors, tarnished metallic embroideries, and soilage, to mention a few of the common effects, must be considered in determining values. In the following list little attempt has been made to estimate the value of salvage, the discussion being limited to cause and effect.

**Art Embroidery Goods.**—This class includes cottons, linens, silks, or mixed fabrics, usually stamped or stenciled in colors to be worked in embroidery silk, cotton, or twist. Such stocks accumulate in stores particularly before Christmas.

The value of the finished articles is mostly in the work put in on the piece. Damage from smoke and water stains is likely to be heavy, particularly in colored materials. White pieces can sometimes be washed. Laundering will destroy new appearance in sheet material.

The embroidery silks or twist used may suffer heavily from water damage due to colors running. Some silks become rough and hard to work if thrown around or wet.

**Baled Goods.**—Compressed bales of goods of all kinds are invariably less affected by fire than loose or loosely packed materials of the same kind, for the obvious reason that though the outside of the bales may become charred and burned the centers are often unaffected by fire. The salvage of baled goods can be improved by wrappings of waterproofed material.

**Bolt Goods.**—Various grades of silks, woolens, linens, etc., are wrapped in ordinary grades of paper, and frequent losses occur, due to failure of such

paper to withstand water. Obviously, bolt goods should be wrapped in waterproof material.

**Coffee.**—Coffee is packed by jobbers in many different kinds of packages. Expensive coffee for retail often comes packed in tins, which is intended to retain the flavor; this package is waterproof. Other grades for retail are packed in cardboard packages and paper bags, which offer little protection to the contents. For the wholesale trade coffee is packed in burlap bags. Roasted coffee is more susceptible to water damage than green coffee. Green coffee may be wet without damage, if it is dried and roasted within a reasonable period of time. Roasted coffee will quickly mildew and is worthless in this condition. Coffee is a commodity frequently subjected to fire and water damage due to the fact that the majority of jobbers do roasting and this process presents a serious fire hazard with resultant numerous fires.

Roasted coffee for retail should be packed in tins, or in bags lined with waterproofed paper. A waterproofed inner lining should be provided for burlap bags intended for roasted coffee.

**Colored Materials.**—Colored materials are peculiar in some of their characteristics. Many of the colored wash fabrics will not run when washed because they are carefully rinsed and dried. If wet and allowed to stand in this condition colors will spread.

Embroideries may have a brownish cast sometimes attributed to smoke and water stain but often the result of age. Embroideries stained by water will have an uneven color.

White materials, intended to be washed, are sometimes assumed immune to water damage, but there is always the danger of mildew and all material that is wet should be thoroughly dried.

**Corsets.**—Because of the steel frames and brocaded materials used corsets are particularly subject to water damage. Rust will work its way through stock which has been wet and heavy losses can be expected in stocks of this kind, particularly in the cheaper grades and unless the stock is adequately boxed.

**Crockery and Glassware.**—The chief danger in stock of this class is breakage, although there is also an expense due to handling wet or smoked crockery. Tables used for the exhibition of fragile merchandise such as crockery and glassware should be constructed with a pipe frame running above the table and fastened to uprights at the center of each end. This rack can be used for hanging advertising literature or other displays and will facilitate the spreading of salvage covers without breakage or delay.

**Electric Floor Lamps.**—One of the stocks most difficult to protect is that of electric floor lamps. Floor lamps are often found in large numbers with shades in place, and when in this condition present a most difficult covering problem.

Only samples should be placed on display. The shades should be stored in cases and the stands remain wrapped and stacked in a manner convenient to cover.

**Fibers.**—The term, combustible fibers, covers cotton (including linters and cotton waste), sisal or henequen, xtle, jute, hemp, tow, cocoa fiber, oakum, baled waste, kapok, Spanish moss, and excelsior (see Regulations on Combustible Fibers). These fibers are usually formed into bales and may be partly covered by burlap or other wrapping. Their hazardous characteristics are, according to the nature of the fiber, a high degree of combustibility, absorption of water, tendency of some fibers to swell, and the bursting of bales by burning of the confining bands or ropes.

All such materials stored in the open should be enclosed in tarpaulins. In warehouses bales should not be tiered or piled and should be separated into small units by aisles and clear spaces. Where bales must be tiered or piled the stability of the pile is of great importance.

Bales should be grouped to permit covering with salvage covers.

Cotton in bales gives a varying salvage dependent largely upon the quality of the cotton and the state of the market.

**Floss and Down.**—Floss will mat if wet and articles stuffed with it usually suffer severely. Down and kapok can ordinarily be renovated.

**Flour.**—Flour in barrels and bags presents a peculiar resistance to water. A barrel or bag of flour coming in contact with water will immediately form a thick paste on the side exposed, and this in turn tends to prevent the water and smoke taint penetrating the entire barrel or bag. For this reason a large salvage is often realized from such stocks. Skidding and covering the stock and keeping piles away from the side walls is recommended to facilitate salvage work.

**Foodstuffs.**—Foodstuffs suffer severely in fires as a rule because they are exposed to smoke and water taint. Bacon, meat, solid fats, butter and cheese may give little or no salvage even if not actually attacked by flame if the fire has been bad, or if there has been much smoke. Greasy smoke causes the worst damage. The pure food laws largely determine the percentage of salvage permissible in foodstuffs.

**Furniture.**—Crated furniture when wet at fires is liable to serious damage unless the wrappings are removed immediately. Such stock is wrapped in excelsior with a binding of ordinary paper or burlap and crated. When allowed to remain in a wet or partially wet wrapping the varnish spots and the glue softens, causing serious damage with small salvage possibilities. A wrapping of waterproofed paper should be used.

**Furs.**—The damage to furs and skins is usually considerable, when they have been subjected to heat or smoke. Water has a bad effect on the natural grease in dressed fur, especially if it has been dyed or faced, making the fur hard and loosening the hair.

**Gentlemen's Furnishings.**—Men's laundry goods, such as shirts, collars, and cuffs, when damaged, will always sell at a fair price, and in the work shirts the damage is very light.

Derby or stiff hats are almost worthless if badly wet or smoke stained, but the damage to fedoras, cloth and soft hats is much less since they are more easily reconditioned.

Work goods of all kinds, trousers, shirts, jumpers, overalls, and gloves are all damaged to a less extent than dress garments. A small damage in a work garment might easily be a large damage in a dress garment. Work trousers, overalls, and jumpers as a rule have metal buttons, and unless these are cared for will rust and rot the cloth next to the button, thus materially damaging the garment.

Suspenders, arm bands, garters, and any article with rubber in it will be badly damaged, as extreme heat will take the life out of the rubber.

Cheap jewelry and cuff buttons are mostly of metal and will tarnish.

The colors in fancy neckwear are likely to run if wet. The plain colors are less susceptible to damage. Men's ties are frequently filled or padded with a wadding which if wet renders neckwear useless.

**Gloves.**—Leather gloves are very susceptible to damage principally due to stitching rotting and clasps or fastenings rusting. Dress and walking gloves, if damaged, are very hard to sell unless they have sufficient weight to be used as working gloves.

Damaged gloves other than leather will sell at a reduced price.

Gloves should be salvaged promptly, and as kid gloves sometimes mildew in stock, care should be taken to differentiate this damage from water damage.

**Grain.**—Grain is usually seriously affected by fire; is subject to swelling which may burst the walls of the building in which stored, and generally ferments. Salvage should be handled promptly.

**Handkerchiefs.**—These when smoked or water stained are generally sold "as is," although the more expensive grades are sometimes laundered.

**Hardware.**—Hardware, both finished and unfinished, is very susceptible to water damage. Frequently stocks of hardware become damaged by their remaining in damp places without actually coming in direct contact with water. In such cases the only possible method of salvage is to heat and ventilate the premises by forced ventilation, using portable fans, and removing the water from the premises as quickly as possible. Many hardware manufacturers have taken this damage into consideration, not from the viewpoint of fire loss, but from the standpoint of shipping. Stock in transit frequently remains in damp freight houses and may be subject to moisture and dampness on drays, etc. To guard against this danger many articles are wrapped in oiled paper. Hardware manufacturers could carry this practice further and include other articles, such as screws, bolts, nuts, nails, and other rough hardware now being packed in common cardboard boxes and kegs which might be lined with heavy waterproof paper.

Proper shelving and bins should be constructed to accommodate this class of stock in wholesale and retail stores.

**House Furnishings, Table Linens, Towels, and Domestics.**—Sheets, pillow cases, table linen, and towels are only damaged by water, as far as salability is concerned. Towels sometimes have colored borders and these may be affected.

Silkolines and cretonnes are usually prints, and for this reason the colors will readily run.



Blankets are shrunk before being finished, and water will shrink them little, if any. As in other goods, the poorer the quality, the greater the physical damage.

Curtains in the best quality are usually not dressed and will not be damaged greatly by water. In the cheaper qualities, the starch will soften and the curtain will lose its shape. Strong smoke, or intense heat, will draw the mesh of curtains and materially damage them.

Comforters are filled with either shoddy, cotton, wool, or down, and are covered with various materials, such as silkoline, cretonne, silks, or satins. The down or wool fill can be renovated or restored to normal condition after either smoke or water damage. If the comforter is of a better grade, it will usually be worthwhile to consider recovering and if necessary, renovation. The poorer qualities will not justify this expense. The cotton- or shoddy-filled comforters will pack when wet badly and are then of no value.

**Jewelry.**—The damage to expensive jewelry by smoke and water is not likely to be heavy, due to the care used in storing. Jewelry of the higher grades can, if wet, be refinished and polished at a small cost. Cheaper grades suffer, like hardware, and reconditioning is costly. Jewelry cases are often covered with dust covers after hours. These dust covers should be made of a light rubberized material.

Shelves and cases are generally easily covered, although clocks hanging on walls and cases against the wall without clearance present difficulties.

**Laces and Trimmings.**—The damage to a trimming lace is much greater than to an ordinary wash lace. A wash lace is nearly always put on a garment that will be washed before it is used, while a trimming lace is put on a garment not intended to be washed. Very few laces look as well after washing as before, and washing naturally shortens the life of any material. Laces with any dressing or filling are seriously affected by water.

Gold and silver are commonly used in the trimmings and after a fire should be handled at once if tarnish is to be forestalled. What are known as gold and silver cloths should be dried quickly, as they will become a total loss if allowed to tarnish. Any silver or gilt trimmings will tarnish from age, if kept in stock for a long time. The tarnish from age is usually general, while tarnish from water will show in either spots or streaks. Mohair braids or trimmings will be damaged little, if any, by water, except in the bright colors which may run. Water will draw a great many of these trimmings out of shape, as they are frequently made of various combinations of wool, cotton, silk and mohair and the effect of water is different on each material. When wet, one material will shrink or stretch away from the other and draw the trimming out of shape.

**Leather.**—Leather in boots, shoes, or gloves is liable to get hard after water soaking with the added risk of cotton stitching being rotted by heat or water. Good sole leather may give a good salvage unless it is actually burned. Inferior leather in cheap shoes or gloves will give little salvage if exposed to any extent.

**Lighting Fixtures.**—Lighting fixtures are susceptible to breakage and to injury by debris and by water dripping from above. In displays, lighting

fixtures are found hanging in large numbers from the ceiling. It is practically impossible to protect displays of suspended lighting fixtures. Frequently fixtures are hung from a false ceiling or deck at the level of the ordinary living-room ceiling to display the fixtures more effectively and to facilitate wiring. Such false ceilings should be of strong construction and watertight. Exhibition of a large number of fixtures hanging from ceilings should be discouraged.

**Millinery.**—Millinery can be broadly classed under three different headings: (1) Staples, such as velvets, velveteens, silks, laces, trimmings, ribbons, wires, and buckram; (2) plumes; (3) fancies, consisting of flowers, feathers, birds, maline, chiffons, and ornaments.

Staples are more than likely to be in fancy colors and are therefore subject to greater damage. In the fancy section the loss may be excessive. Flowers are nearly always wired together, and even when this wire is covered the water will reach it at the joint, in a short space of time the wire will corrode, and the flower will separate from the stem. In nearly every style of fancy the joining is done either by wire or glue, and when the wire is affected, as above stated, the glued fancies will all fall apart, water seeming to kill all the virtue in the glue. Wings and birds are sometimes put together by the same method and the same damage results. Feathers will, if wet, stick together in little bunches. They will never, even after drying, look the same and are decidedly unsalable. Plumes are the best of the articles that are not, strictly speaking, staples.

Maline and chiffons are absolutely of no value if they are once badly wet, even though the colors are fast. A starchy substance is used to give them a certain body and sheen; as soon as moisture touches them the life immediately leaves them. The buckles and ornaments are subject to different degrees of damage. These are made of cut steel, glass, aluminum, celluloid, rubber, and bone. The glass will not damage unless the fire actually touches it; celluloid will ignite if exposed to very little heat. The rubber ornaments are made of some substance in conjunction with rubber, and it does not take much heat to melt them. Untrimmed hats or shapes are made of various materials such as felt, velvet or straw. Felt will spot from water worse than any other material and the cheaper the felt the more susceptible it is to damage.

The principal damage to the untrimmed velvet hat is in the lining, which is usually of buckram. This buckram, when exposed to dampness, will shrink away from the velvet and even if the velvet is not affected, will cause serious damage, as the value of an untrimmed hat is usually more than 50 per cent labor.

In straw shapes the damage is regulated by the grade of material. Straws of poor shape are filled with glue dressing and water will take all the shape out of them. The better grades of straw keep their shape very well, and will reblock. To reblock the Panama straw it is steamed or soaked in water and then put on a block and reshaped.

Generally the only chance for salvage to be realized on a trimmed hat is the possibility of some part of the trimming being utilized.

**Muslin Underwear and Infants' Goods.**—Water will leave a stain which should wash out in any white goods the first time they are laundered, but which will affect the selling value. If smoke stains a sheer material, and this department is nearly all sheer material, the stain usually goes through to the other side, when radical measures are required to remove the stain. The fact that goods are white is an advantage as they can be boiled to remove stains. It is sometimes difficult to tell the difference between a bad smoke stain and a scorch. If the material is scorched it will tear as soon as it is handled. A smoke stain will not do this. Infants' goods and muslin underwear are frequently trimmed with ribbons, sometimes colored and sometimes white. The danger of the colors running is slight, as wash ribbons are generally used.

**Paper.**—Paper in rolls or stacked does not burn readily, but it scorches at the edges. The same applies to printed sheets or unbound books. Newsprint paper must fit a press of certain width and other paper is sold in standard sizes. Cutting off the burnt edges is an expense and there is a considerable waste in cutting down to the next smaller standard size. Printed sheets are generally trimmed during binding and they often form quite a good salvage, but in either case heat may render paper, especially if it is largely made of wood pulp, brittle and useless for later use. Covers of books are to a large extent stiffened and held together with glue, which softens if water is applied and lets the book fall to pieces. In this condition the paper is more easily burnt than if stacked tightly as sheets.

**Patterns.**—Dress patterns consist of a number of pieces of thin paper which must retain their original size and shape, as the least difference in one piece will render the whole pattern useless. Water will stick the tissue paper together or shrink it so that it cannot be used.

**Piece Goods.**—The salvage from silk, wool, linen and cotton goods, woven or knitted, depends mainly on quality. The best qualities generally show a good salvage, unless they are of very dainty color and light texture. Pure silk will stand considerable heat and water, unless it be loaded with shellac or gum, when it falls to pieces if it has been hot or wet. Artificial silk is generally subject to considerable water damage. Linens are generally thin and suffer disintegration by heat. Woven wool suffers less than fleeces in small parcels. Hard woven cotton is less easily damaged than the teased-up varieties which look like flannel.

**Ready to Wear Goods.**—Suits are usually kept in full length center or wall cases. A damage that can be avoided and that often occurs is caused by water collecting on top of the cases and seeping through to the garments, streaking and staining them. When suits are wet they are badly damaged through the lining of the coat or jacket, shrinking and throwing the garment out of shape. Often the material will shrink and leave the lining showing all around the bottom.

Children's dresses are usually kept in drawers in the lower part of wall cases, or under the counter, and water or smoke is not likely to reach these garments. They are often affected by water running down the wall

behind the cases and entering the drawers from the rear. This is a very bad damage as it is not anticipated and frequently is not discovered until every garment in the drawer is affected. The children's dresses are generally of wool or cotton, and are not damaged as badly as women's garments, as they are practically all staples and have no fancy colors, and even if damaged would sell much more readily than a woman's garment.

**Ribbons.**—The manner of handling and the position in stock will govern to a large extent the damage sustained by ribbons. All the wider widths of ribbon are rolled usually in ten-yard lengths, in paper which is made expressly for the purpose to protect them from dust and dirt. The paper is about an inch wider than the ribbon and is rolled so as to leave only a half yard of ribbon exposed. The bolts of ribbon are sometimes stood on end, on top of each other, and sometimes laid sideways on long racks. The bolts on end are subject to much greater damage than those that are laid sideways, as the water dropping on them will go through the whole bolt of ribbon by way of the open edge, and streak the whole piece, while in those that are laid sideways it cannot penetrate further than the outside yard or two unless left to soak. The ribbons so kept must be handled quickly, as the paper used will absorb water. The smoke damage is light, as the smoke cannot come in contact with any great amount of ribbon, due to the protecting paper. All the narrow widths of ribbon and also velvet ribbons are kept in boxes. The velvet ribbons must be kept away from water, which affects them the same as it does the material. In some ribbon departments fancy bows and novelties of all descriptions for women's wear are made up and kept on display. These novelties are generally made of the most delicate shades and colors and are very perishable, and the chance of damage is very great.

**Rugs.**—Rugs, when finished by the manufacturer, are shipped to wholesalers or retailers packed in common burlap. Burlap is used as a protection from soilage and not intended to protect the contents from water damage.

To protect the rugs against water damage, they should be wrapped in a waterproofed material and covered on the outside with strong burlap.

In most large stores rugs are packed one upon another in piles. These piles should be on platforms 6 inches or more off the floor. They should never be allowed to be piled on the floor as the water damage will then be considerable in the event of fire.

Rugs of an inferior grade will fade, and the colors run if subjected to water. Expensive rugs can be dried out and a reasonable salvage realized. Rugs on display should be covered after hours with a dustproof and waterproof cover.

**Shoes.** (*See also Leather.*)—Shoes, after finishing at the factory, are ordinarily placed in pairs, wrapped in tissue paper and enclosed in a cheap cardboard box with no thought given to the protection of the shoes from water. Expensive and cheap shoes are packed in the same manner. The shoes are sold by the manufacturers to the jobber in paper cartons or wooden cases, containing from 12 to 60 pairs of shoes in the boxes before mentioned. These cartons are made from various kinds of material, the

majority of the cartons being made from corrugated paper. They are made with a view to form a practical shipping package in as cheap a manner as possible.

**Silks.**—The poorer the quality of silk the greater the damage; in fact, if the silks were pure the damage would be very slight, except in the fancy shades, which would streak or spot. Silks should be given immediate attention, as the damage accrues very rapidly. The colors running in some of the silk will almost invariably spread to other parts of the stock and discolor the best grades, which might not otherwise be affected. There is another class of damage caused by the manner in which the stock is kept. With few exceptions silks are single width and are folded either in yard, meter, or yard and quarter lengths, covered on the outside with a lightweight and pliable pasteboard or heavy paper. It is impossible to keep handling these goods without tearing the covering, and as the tear usually occurs at the double edge the center of the silk is affected. Dyes running from water damage would very quickly permeate a whole piece of silk and completely ruin it; especially is this true in the thinner or lighter grades, as the damage in this case, being crosswise of the goods, would show in every yard. To get rid of the stain it would be necessary to cut out a piece of every fold.

In goods which are rolled, such as linings or dress goods, the damage even on the double fold is not nearly so great as in the folded silks, because by cutting off the double edge, which is lengthwise of the goods, two pieces of perfect goods can be made, nearly half the width of the original. But this is not quite as good as would appear, for the reason that the minute when the width of the material is cut a limit is put on its utility. The narrower the raw material the more seams are necessary in the manufactured article, and a great many manufactured articles will not allow joining. Nevertheless, the value of the half width material would be greater than the yard or yard and a quarter length in the folded goods. The smallest loss in this department, unless increased by damage communicated from other silks, will be in the grosgrains, wash, and summer silks, as these can all be washed.

**Tea and Tobacco.**—Tea and tobacco give very poor salvage since the taint of smoke runs them.

**Underwear.**—Woolen underwear is always subject to shrinkage and the light colors will show stain. Extreme heat will draw up the material and smoke will streak or stain it. A stain to woollens is always worse than to cotton. Woollens should not be boiled to remove stain as they would shrink too much and the vitality would be taken out.

**Velvets, Velveteens, and Corduroys.**—The damage to velvets, velveteens, and corduroys is governed by the quality. Velveteens being cotton, the color will run and the pile will be flattened beyond restoration. The silk velvets with cotton backs are affected very much in the same manner; even a few drops of water seeming to spot them badly. However, a piece of silk velvet may be soaked in water, taken out, shaken thoroughly and dried, without showing any ill effects. The common method used by milliners to freshen silk velvet is to hold it over steam. The cheaper grades

of corduroy are filled with a glue preparation, and water will, in small quantities, spot these and in large quantities take all the body out. The best grades of corduroy are almost undamageable by water.

**Wall Paper.**—Serious losses occur where wall paper is stored in large quantities. The rolls are tied in bundles and the bundles stacked on end, presenting a most difficult salvage situation. It is practically impossible for men to climb the piles and spread salvage covers, due to the fact that the piles are easily knocked down resulting in chaos where order should prevail. It is impractical to wrap stock of this nature when in storage.

It is recommended that stock be kept away from side walls and at least 36 inches below the ceiling, that boards of five-ply thickness 5 feet wide and 9 feet in length be used between each tier to tie the stock. Larger dealers should welcome this suggestion as a means of keeping their stock in an orderly manner. They would benefit in the regular operation of their business aside from the value of such an arrangement in the event of fire.

**Wash Goods.**—These are not liable to damage from water, as they are made purposely to wash. But there is always the danger of colors running, and the term "wash goods" is in many instances a misnomer. The better grades of wash dress goods are kept in the same manner as silks, and the same class of damage obtains. In all of the sheer materials a dressing is used to stuffen and give body to the fabric. If they are wet, even granting that the color will not run, the damage will be considerable, as the fabric will lose its body. This material will launder and look well; but the fact that it has lost its freshness will impair its salability. Shrinkage must always be watched for. A cheap quality of gingham will shrink as much if not more than any other fabric.

**Wool.**—Wool in fleece does not burn readily, but the spontaneous heating subsequent to water damage takes the oil and tensile strength from it. It should be salvaged promptly.

**Woolen Dress Goods.**—Woolens of all kinds are supposed to be affected quite readily, particularly by smoke. Smoke damage should not be claimed or allowed unless a trace of discoloration is evident on the material. Of course the porous or loose texture woolens will take the odor of smoke, even without discoloration, but this odor will leave the material if well aired. Woolen dress goods are covered on the outside with a heavy wrapping paper, and only the selva edge is exposed. In a well-kept stock smoke will not get much chance to reach the light colors; but water will damage them materially. Similar trouble will be encountered here as in the silks, due to colors running, but not to the same extent. In plain colors, such as dress goods are made of, the colors are not nearly so likely to run as in silks, where one piece may have a half-dozen colors, and if one of them is affected the whole piece will be spoiled. A feature to be contended with here is the shrinkage. The different weaves are affected differently, the looser the weave the more likelihood there is of shrinkage. What is known as flannel cloth is very loose texture, and heat or hot smoke will draw it up or shrink it. Broadcloth is affected by water, which spots it.

**Yarns and Knit Goods.**—Yarns and knit goods are very susceptible to damage. Smoke stains them very quickly and water will shrink or cause the colors to run. Shop wear and fading in yarns will occur even with the most careful merchant. Some shades will fade if exposed to the light, and will often fade even in the box, if they are kept in stock any great length of time. This damage must not be confused with fire damage.

**AGREEMENT FOR REMOVAL OF STOCK  
FROM FIRE DAMAGED PREMISES FOR BETTER PROTECTION**

THIS MEMORANDUM (executed in quadruplicate-original) WITNESSETH:

THAT WHEREAS the undersigned

who for the purpose of brevity herein is hereinafter called the "Insured" holds certain policies issued to said Insured by the Insurance Companies, who for the purpose of brevity herein are hereinafter called the "Insurers" and are represented by the Committee on Losses and Adjustments of the New York Board of Fire Underwriters, acting through the undersigned Adjustment Committee, which said policies of insurance purport to insure the said Insured against loss and damage by fire (or other casualty) to the property therein described, to wit:

while contained in

and under which claim has been made for loss and damage to said property by casualty occurring on or about

AND WHEREAS it is to the mutual advantage of all parties hereto and of all who may have any interest in said described property that steps be taken immediately to protect same from further injury, without waiting to determine any question of value or of ownership or liability for loss thereto,

IN CONSIDERATION WHEREOF it is hereby mutually understood and agreed by and between the said Insured and the Insurers (each Insuring Company acting for itself and not for its co-signors) that the following described property,

shall be and is hereby delivered into custody of  
for account of whom it may concern to be by them removed for better protection and/or drying and/or conditioning and held by them subject to the Insured's order under the following conditions.

1. and the Insured acting jointly shall make a complete detailed inventory of said stock before or as it is removed from said premises, but any prices shown on said inventory, being prices given by the Insured and subject to subsequent verification, are not binding upon the Insurers, as has/have

no authority to agree on prices or values.

2. It is understood and agreed that  
has/have or will obtain insurance in its/their own name for account of whom it may concern, to the full value of the removed property in its damaged condition, against hazards of fire, lightning, sprinkler leakage, theft, burglary and pilferage, transportation, explosion and water damage, but nothing herein contained shall be construed as relieving ..... from its/their legal liability for all loss and damage to the removed property resulting from its/their negligence.

3. It is further understood and agreed that if any of the above described merchandise is in bond, the same shall be transferred in bond, and held subject to Customs inspection for abatement of duty as required by Section 563, Tariff Act of 1922.

4. All necessary charges and expenses of including the cost of re-delivering if the property is returned to the Insured, shall be held as a charge against the property removed, and in the event of an appraisal and award after removal of the property under this agreement, shall be added to the Award if not already included therein.

Nothing herein contained shall be construed as authorizing or empowering the to hold any removed property and to refuse to re-deliver same on the Insured's written demand until all their charges are satisfied however, possess the right to retain possession of the property during the normal period required for drying and/or conditioning.

It is agreed that in the event it is determined by lawsuit or otherwise that the Insurers have no liability to the Insured, the Insured will pay and hereby assumes liability to for its/their proper charges in connection with the removal and/or conditioning and/or drying and/or storing and/or returning of such property, or any part thereof.

AND IT IS FURTHER UNDERSTOOD AND AGREED that the above action and execution of this Agreement shall not be construed or pleaded as an admission of liability on the part of the Insurers, or as a waiver of any of the conditions of their several policy contracts, or as a waiver of or in estoppel to any defense that may exist against any claims thereunder, the object of this action and agreement being to protect immediately the property from further damage for the account of whom it may concern without delaying to determine the value thereof or the amount of and/or liability for loss thereto, so that the value remaining may be conserved to the greatest extent for all parties at interest.

IN WITNESS WHEREOF we have hereunto set our hands and seals this  
day of 19

Insured

Adjustment Committee

ACTING FOR THE COMMITTEE ON  
LOSSES AND ADJUSTMENTS OF THE  
NEW YORK BOARD OF FIRE UNDER-  
WRITERS

hereby agree to  
assume custody of the above described property subject to all the terms of the foregoing  
Agreement.



THIS MEMORANDUM WITNESSETH, That whereas certain cotton contained in or on \_\_\_\_\_

or platform and yards adjacent thereto, which said warehouse, yards, platforms and cotton were in control and custody of the

undersigned, \_\_\_\_\_  
as warehousemen or bailees, have been damaged or destroyed by fire occurring on or about \_\_\_\_\_ 192\_\_.

AND WHEREAS, various parties having an interest as owners, bailees or otherwise in said cotton, hold certain policies of insurance purporting to insure them against loss or damage by fire thereto as therein respectively set forth;

AND WHEREAS, it is impossible to immediately identify the various lots or bales of said damaged cotton as to definitely determine the ownership thereof or decide which, if any, of sundry insurance policies are liable for loss thereto;

AND WHEREAS, it is to the mutual advantage of all parties hereto, and of all who may have any interest in or claim against the same damaged cotton, that all fire be promptly extinguished therein and necessary steps be taken to protect same from further injury, put in order for sale, and the question of ownership investigated and determined without further delay;

NOW THEREFORE, in consideration thereof, it is hereby mutually agreed and understood by and between the said

who had custody or control of said cotton as warehouseman or bailee, and the \_\_\_\_\_

acting as representative of the various insurance companies at interest that all that now remains of said damaged or destroyed cotton shall be and is hereby turned over to the Underwriters Salvage Company, to be by them protected from further damage by fire or otherwise, put in condition for sale and sold, all in the interest of whom it may concern, and the proceeds of such sale, less the Salvage Company's expenses (which shall include the necessary traveling expense and maintenance of the officers or agents of the Company) of handling same, plus

\_\_\_\_\_ % as commission and over-riding charges for supervising, etc., on gross sales, shall be held by them until loss is adjusted and then turned over by them to the parties to whom said proceeds belong.

The object of this action and agreement being to immediately handle the salvage cotton without delay to determine the various owners' interests and without reference to the liability of their respective insurers therefor, so that the greatest returns may be obtained for all parties at interest.

IN WITNESS WHEREOF, We have hereunto set our hands

and seals in \_\_\_\_\_, this \_\_\_\_\_

day of \_\_\_\_\_, 192\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## SALE OF STOCK FOR ACCOUNT OF LOSS

*(Sound Value Agreed Upon)*

It is hereby understood and agreed by and between ..... ,  
 part . . of the first part, and Insurance Companies represented by The  
 Committee on Losses and Adjustments of the New York Board of Fire  
 Underwriters, parties of the second part.

That the sound value on . . . . . , of the stock of merchandise,  
 the property of the part . . . of the first part, in building No. .... ,  
 damaged by fire of that date, has been ascertained and determined at .....  
 . . . . . dollars (\$.... .).

It is further understood and agreed that all that remains of said merchan-  
 dise shall be sold by the Underwriters' Salvage Company for account of the  
 loss, net proceeds to be paid by said Underwriters' Salvage Company to  
 said part. . . of the first part, and

That proofs of loss to be thereupon rendered by the part. . . of the first  
 part to the several Insurance Companies in interest, parties of the second  
 part, shall be considered as if rendered to said Companies at the date hereof.

This agreement to be subject to all and singular, the terms, provisions and  
 conditions of the several policies of insurance issued by said parties of the  
 second part to said part . . . of the first part

Witness our hands at the City of New York,)

This . . . . . day of . . . . . .. A. D. 1927.)

.....  
 Insurance Companies represented by  
 The Committee on Losses and Adjust-  
 ments of the New York Board of Fire  
 Underwriters.

By....  
 COMMITTEE.

## SALE OF STOCK FOR ACCOUNT OF LOSS

*(Sound Value Not Agreed Upon)*

It is hereby understood and agreed by and between ..... ,  
 part . . of the first part, and Insurance Companies represented by The  
 Committee on Losses and Adjustments of the New York Board of Fire  
 Underwriters, parties of the second part,

That Woodrow and Lewis, of. . . . . , shall sell from the  
 premises of the assured, No..... , or elsewhere, as said Woodrow  
 and Lewis may elect, for account of the loss, all that remains in salable  
 condition of the stock of merchandise, the property of the part . . of the  
 first part, located and contained on . . . . . in building No  
 ..... and damaged by fire on that day:

That the property is to be inventoried by said Woodrow and Lewis and  
 the said part. . of the first part, as the same shall be removed or sold; and

That prices thereof are to be given by said part. . of the first part,  
 subject to subsequent verification.

This agreement to be subject in all respects to all and singular the terms,  
 provisions and conditions of the several policies of insurance issued by said  
 parties of the second part to said part . . of the first part.

Witness our hands at the City of New York,)

This . . . . . day of.....A. D. 1927 )

.....  
 Insurance Companies represented by  
 The Committee on Losses and Adjust-  
 ments of the New York Board of  
 Fire Underwriters,

By ... .  
 COMMITTEE

## APPENDIX G

### REPORT ON UNADJUSTED LOSS

TO COMPANIES AT INTEREST,

Dear Sirs:

Re: *Loss Alfred A Black & Co., near Boling, Ga (Savannah, Ga. Agency).  
Fire of May 10th, 1929*

#### 1. INSURANCE INVOLVED:

Pol. No.	Date	Expires	Company	Amount
2893	6-15-28	6-15-29	Aetna . . . . .	\$ 2,500
382346	10-12-28	10-12-29	Commercial Union. . . . .	2,500
432401	3-10-29	3-10-30	Fidelity Underwriters. . . . .	2,500
5622	9-14-28	9-14-29	Hartford . . . . .	2,500
6286	2-16-29	2-16-30	L. & L. & G. . . . .	2,500
				<hr/>
				\$12,500

Covering—\$10,000 On the building known as the rosin and turpentine distilling shed, and on all additions and extensions thereto, and including still and all machinery and equipment and tools therein, situate near Boling, Georgia.

2,500 On Stock of Naval Stores of every description, manufactured, unmanufactured, and/or in process of manufacture, all while contained in the above described building and additions and extensions thereto and/or while on yards immediately adjacent thereto.

---

\$12,500 Total Insurance.

#### 2. ORIGIN OF FIRE:

The fire originated about 2:00 p m., May 10th, 1929, under the Spirits Shed, apparently from hot coals being blown by a whirlwind from a boiler adjacent to the Shed about fifty feet away.

The fire communicated immediately to a barrel of spirits turpentine, which set fire to the Spirits Shed, and to the tub. By extraordinary effort on the part of the employees of Assured, and the residents of the town of Boling, the fire was extinguished with the use of sand.

### 3. SOUND VALUE AND LOSS AND DAMAGE: BUILDINGS, MACHINERY, EQUIPMENT, ETC.

#### (ITEM No. 1)

Sound value, estimated .....	\$14,000 00
Cost of repairs, estimated by Adjuster. ....	108 75
Loss and Damage, as agreed .....	108.75
STOCK OF NAVAL STORES	

#### (ITEM NO. 2)

Sound value, estimated ... ..	\$ 3,250 00
One barrel spirts.....	24 75
Less freight.. ..	41
Loss and Damage, as agreed.....	<u>\$24.34</u>

### 4. POLICY VIOLATION:

Incumbrance without notice.

A Deed to Secure Debt was given by Assured to Henry White Company, January 3, 1928, securing advances and credits in the amount of \$16,000. No notice of this incumbrance was given to either the Agent or the Company.

It appears that various turpentine plants were insured through the factors, Henry White Company of Savannah, brokered through Messrs. George Crawford Company, Agents, Savannah, to Messrs. Thomas Cook & Company, Agents, Savannah. The policies were never in possession of Assured, but were delivered to Henry White Company by Messrs. George Crawford Company, and were in their possession at the time of the loss. Through oversight on the part of the brokers, the Agents who issued the Policies were not notified of the incumbrance, and no endorsement accepting notice or Loss Payable Clause to the Mortgagee was attached to them. It appears that the Mortgagee did not inspect the Policies before the loss occurred, or they undoubtedly would have had a Loss Payable Clause attached.

### 5. REMARKS:

As no suspicion is attached to Assured as to the origin of the fire, and as the violation of the Policy was apparently due to an oversight, as stated, I believe it would be to the best interests of the Company in this instance to issue instructions for the adjustment to proceed on its merits.

The Loss and Damage, as agreed, has been fixed under an Adjuster's Agreement.

Awaiting instruction as to further procedure, I am,

Yours very truly,  
Adjuster.

# APPENDIX H

## ADJUSTER'S AGREEMENTS

### ADJUSTER'S AGREEMENT.

Whereas, ..... claims loss and damage by a  
 ..... alleged to have occurred on the ..... day of ..... 192...  
 to certain property insured under Policy No ..... issued by the .....  
 Insurance Company of ..... by its Agency at .....  
 to ..... Assured, and

WHEREAS, said ..... and the Insurance Company issuing said Policy  
 are mutually desirous of determining and agreeing upon the amount of such loss and damage, without  
 regard to the liability of the Company, and without the relinquishment or surrender on the part of said  
 ..... of any of ..... rights in the premises, and without the waiver or  
 surrender by said Insurance Company of any of its rights or defenses or of formal proofs of loss, or any  
 of the conditions of said Policy.

Now, THEREFORE, in consideration of the trouble and expense incident to such investigation and determi-  
 nation which have been incurred in the premises by said .....  
 and said Insurance Company, respectively, and by way of a compromise, it is hereby stipulated and agreed  
 that the sound cash value of said insured property, immediately preceding the loss, and the total loss and  
 damage thereto are as follows

Description—	Sound Value	Loss & Damage
.....	\$ ..... \$ .....	\$ .....
.....	\$ ..... \$ .....	\$ .....
.....	\$ ..... \$ .....	\$ .....

And said sums as above set forth and agreed upon are hereby irrevocably accepted by the parties hereto  
 as binding and conclusive, but it is expressly and specifically understood and agreed, by and between the  
 parties hereto that the question of liability has not entered into and is not in any manner covered or affected  
 by this agreement, and said ..... shall not be held or deemed  
 to have relinquished or surrendered any rights under said Policy beyond being bound by said sound value  
 and loss and damage as herein set forth and agreed upon. said Insurance Company shall not be held or  
 deemed to have waived any of its rights in the premises, nor waived formal proofs of loss, nor waived any  
 of the conditions or requirements of the policy beyond being bound by said sound value and the loss and  
 damage as herein determined and agreed upon

IN TESTIMONY WHEREOF, the said parties have hereunto set their hands, this .....  
 day of ..... 192....

Signed and delivered in the presence of .....  
 .....  
 .....

..... 19 .

## Memorandum of Value and Loss

Assured

Location

Property involved in claim

Date of fire

This memorandum is without admission of liability. The sound value of the property claimed to be insured and the loss thereon have been ascertained as shown below, without prejudice to any defenses and subject to all and singular the terms and conditions of the policies upon which claim is made.

.....  
.....  
.....

# APPENDIX I

## APPRAISAL AND REFERENCE AGREEMENTS

Claim No. \_\_\_\_\_

### SOUTHERN ADJUSTMENT BUREAU

#### Memorandum of Disagreement and Appraisal

This memorandum made and executed in duplicate original this \_\_\_\_\_ day of \_\_\_\_\_ 192\_\_\_\_, by \_\_\_\_\_

who for the purpose of brevity is hereinafter designated the "Insured" and the \_\_\_\_\_

and all other Insurance Companies, whose signatures are affixed hereto, who for the purpose of brevity are hereinafter designated the "Company", each Company acting severally for itself and not for its co-signors.

Witnesseth, that, whereas said Insured holds certain policies, issued by said Company, purporting to insure the said Insured against all direct loss and damage by fire to the property described in Schedule A attached, which said property it has been alleged was damaged or destroyed by fire occurring on or about \_\_\_\_\_

And Whereas, said Policies contained the following conditions:

This Company does insure \_\_\_\_\_ In case the Insured and this Company shall fail to agree as to the amount of loss or damage, each shall, on the written demand of either, select a competent and disinterested appraiser. The appraisers shall first select a competent and disinterested umpire; and failing for fifteen days to agree upon such umpire then, on request of the Insured or this Company, such umpire shall be selected by a judge of a court of record in the state in which the property insured is located. The appraisers shall then appraise the loss and damage stating separately sound value and loss or damage to each item; and failing to agree shall submit their differences only, to the umpire. An award in writing, so framed, of any two when filed with this Company shall determine the amount of sound value and loss or damage. Each appraiser shall be paid by the party selecting him and the expenses of appraisal and umpire shall be paid by the parties equally.

and, see lines 159-175 inclusive:

159 APPRAISAL. In case the Insured and this Company shall fail to agree as to the amount of loss or damage, each shall, on the written demand of either, select a competent and disinterested appraiser. The appraisers shall first select a competent and disinterested umpire; and failing for fifteen days to agree upon such umpire then, on request of the Insured or this Company, such umpire shall be selected by a judge of a court of record in the state in which the property insured is located. The appraisers shall then appraise the loss and damage stating separately sound value and loss or damage to each item; and failing to agree shall submit their differences only, to the umpire. An award in writing, so framed, of any two when filed with this Company shall determine the amount of sound value and loss or damage. Each appraiser shall be paid by the party selecting him and the expenses of appraisal and umpire shall be paid by the parties equally.

and, lines 78-88 inclusive:

78 WAIVER. No one shall have power to waive any provision or condition of this policy except such as by the terms of this policy may be the subject of agreement added hereto; nor shall any such provision or condition be held to be waived unless such waiver shall be in writing added hereto, nor shall any provision or condition of this policy or any feature be held to be waived by any requirement, act or proceeding on the part of this Company relating to appraisal or to any examination herein provided for; nor shall any privilege or permissio affecting the insurance hereunder exist or be claimed by the Insured unless granted hereto or by rider added hereto.

Wherefore, in compliance with the conditions above set forth, the parties hereto having disagreed to the amount of said loss, the said Insured does hereby select \_\_\_\_\_

and the said Company does hereby select \_\_\_\_\_

as competent and disinterested appraisers

to estimate and appraise the sound value and damage to said described property.

Witness our hands and seals the day and year first above written.



**Qualification of Appraisers**

State of \_\_\_\_\_ }  
County of \_\_\_\_\_ } ss.

We, the undersigned, do hereby swear that we are not in any manner in the employment of, nor related to any individual affected by this appraisal, or in the employment of any Insurance Company, nor interested as creditors or otherwise in the result of this appraisal or the property herein described, that we are competent to act as appraisers, that we will faithfully discharge our duties as appraisers and act with strict impartiality in making a true and just estimate and appraisal of the sound value and loss and damage as provided for by the conditions of said policies as herein above set forth.

\_\_\_\_\_  
\_\_\_\_\_  
Subscribed and sworn to before me, this \_\_\_\_\_ day of \_\_\_\_\_

Notary Public.

Appraisal Agreement (Page 2).

**Selection of Umpire**

We, the undersigned, do hereby select \_\_\_\_\_

as a competent and disinterested Umpire to decide differences that may arise between us in appraising the sound value and loss as above set forth.

Witness our hands, this \_\_\_\_\_ day of \_\_\_\_\_

**Qualification of Umpire**

I, the undersigned, do hereby accept the appointment of Umpire as above set forth, and do solemnly swear that I am not in any manner in the employment of nor related to any individual affected by this appraisal, or in the employment of any Insurance Company, nor interested as creditor or otherwise in the result of this appraisal or the property herein described, that I am competent and that I will act with strict impartiality in deciding the differences that may be submitted to me by above mentioned appraisers.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_

Notary Public.

**AWARD**

We, the undersigned, in accordance with our appointment and the conditions herein above set forth, do hereby declare that we have estimated and appraised the sound value of the property herein described and the loss and damage thereto caused by said fire, and our award is as follows:

	Sound Value	Loss and Damage
Property described under First Item of Policies		
Property described under Second Item of Policies		
Property described under Third Item of Policies		
Property described under Fourth Item of Policies		
TOTAL SOUND VALUE		
TOTAL LOSS AND DAMAGE		

Witness our hands and seals at \_\_\_\_\_  
this \_\_\_\_\_ day of \_\_\_\_\_

## APPRAISAL AGREEMENT

IT IS HEREBY stipulated and agreed by and between \_\_\_\_\_

of the first part, and \_\_\_\_\_

each acting for itself and not as agent for the other, and each as party of the second part, that \_\_\_\_\_

\_\_\_\_\_, designated by the part \_\_\_\_\_ of the first part, and

\_\_\_\_\_, designated by the part \_\_\_\_\_ of the second part,

shall ascertain, pursuant to the terms and conditions of the policy \_\_\_\_\_ of insurance issued by said comp\_\_\_\_\_

to the party of the first part the sound actual cash value of the property of said party of the first part, on the-

day of \_\_\_\_\_, 192\_\_\_\_\_, which is more particularly described in the policies as \_\_\_\_\_

as well as the actual direct loss and damage caused thereto by a fire which occurred on that day and/or, if this agreement contemplates personal property in such case damage if any caused by removal from premises endangered by fire, that the said two appraisers shall first select a competent and disinterested person who shall act as umpire and the said two appraisers together shall then estimate and appraise the loss stating separately sound value and damage to each item, and failing to agree, shall submit their differences only, to the umpire. An award, in writing, so itemized of any two when filed with the insurance companies above designated shall determine the amount of sound value and of loss or damage. Such loss or damage shall be ascertained according to the actual cash value of said property at the time of the occurrence of said fire, with proper deductions for depreciation however caused, and shall in no event exceed what it would cost to repair or replace the same with material of like kind and quality within a reasonable time after such loss or damage, without allowances for any increased cost of repair or reconstruction by reason of any ordinance or law regulating construction or repair and without compensation for loss resulting from interruption of business or manufacture but such appraisement does not in any respect waive any of the provisions or conditions of said policy or policies of insurance or any forfeiture thereof, or the proof of such loss and damage required by the policy or policies of insurance thereon.

Each appraiser shall be paid by the party selecting him and the expense of appraisal and umpire shall be paid by the parties equally.

NEW YORK, \_\_\_\_\_ 192\_\_\_\_\_

## APPOINTMENT OF A THIRD PERSON

We, the undersigned, do hereby appoint \_\_\_\_\_  
 as umpire, as provided for in the within Agreement

\_\_\_\_\_ 192\_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_ } Appraisers

## DECLARATION

State of \_\_\_\_\_ }  
 County of \_\_\_\_\_ } ss

We, the undersigned, do solemnly swear that we are not interested, either directly or indirectly, as partners, creditors, or otherwise, or related to either of the parties to the foregoing agreement, that we will act with strict impartiality in making an appraisal agreeably to the foregoing appointment, according to the best of our knowledge, skill and judgment.

WITNESS our hands, this \_\_\_\_\_ day of \_\_\_\_\_ A. D., 192\_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_ } Appraisers

\_\_\_\_\_  
 \_\_\_\_\_ } Umpire

Sworn to before me by said \_\_\_\_\_

and subscribed by \_\_\_\_\_ in my presence, this \_\_\_\_\_ day of \_\_\_\_\_ A. D., 192\_\_\_\_\_

## AWARD

We, the undersigned, pursuant to the within appointment, DO HEREBY CERTIFY, that we have truly and conscientiously performed the duties assigned us, agreeably to the foregoing stipulations, and have appraised and determined the actual cash value of each item of said property on the \_\_\_\_\_ day of \_\_\_\_\_ 192\_\_\_\_\_ and the actual direct loss and damage thereto by the fire on that day, to be as follows, (see itemized schedule attached hereto) to wit

Total Actual Net Cash Value \_\_\_\_\_

Total Actual Direct Loss and Damage \_\_\_\_\_

WITNESS our hands, this \_\_\_\_\_ day of \_\_\_\_\_ 192\_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_ } Appraisers

\_\_\_\_\_  
 \_\_\_\_\_ } Umpire

Appraisal Agreement (Reverse).

NOTE.—The following form is designed primarily for the determination of the amounts of loss or damage and sound value as required by the terms of the Massachusetts Standard Form of Fire Insurance Policy and the Massachusetts Statutes relating thereto. See in particular Gen. Laws, Chapter 176B, Sections 50, 107 and 131. A determination of sound value is necessary whenever the policy in question contains a reduced rate or endorsement clause. Otherwise it is not compulsory and so much of the form as relates to sound value may be stricken out or left in as the parties may prefer. With few changes the form may also be used in connection with certain lightning, theft and automobile insurance. When fire insurance upon real estate is involved, such mortgages as are mentioned in the policy should sign the agreement for reference.

## Agreement for Reference

WHEREAS claim for indemnity is made by \_\_\_\_\_ hereinafter called the assured, under a certain policy or policies of insurance issued by the insurance company or companies each of whose names is subscribed hereto, for loss or damage caused by fire which occurred on or about \_\_\_\_\_ at \_\_\_\_\_ and \_\_\_\_\_

WHEREAS, the assured and said insurance company or companies have failed to agree upon the amount of the loss or damage caused by such fire to the property which such policy or policies purport to cover—and have also failed to agree upon the sound value of such property—and

WHEREAS, it is mutually desired by the assured and said insurance company or companies that the amount of such loss or damage—and also such sound value—be determined by referees, and to that end they have mutually complied with all provisions of Law and the said policy or policies relative to the nomination of referees and have chosen \_\_\_\_\_ to act as two of such referees,

Now, therefore, the parties signing this agreement severally agree that the above-named referees, together with a third referee to be chosen in the manner provided by said policy or policies or appointed as provided by statute in such case made and provided may determine the amount of the loss or damage caused by said fire to—and the sound value of—the following described property, namely,

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Said referees shall within ten days after the choice or appointment of the third referee, unless such time be extended by the parties hereto, meet to take such evidence as seems to the referees to be relevant, material and helpful and if the case is not completed at the first hearing may hold other hearings. Suitable notice in writing of every hearing shall, unless waived, be given by the referees to each of the parties or their proper representatives and if either of the parties neglects to appear at any such hearing after such notice the referees may proceed in his absence. The referees may severally or together view the property in question, make such inquiries and investigations as they may wish of such persons and matters and at such times as they may severally deem proper. They may take into consideration the age, condition, location and actual cash value of the property immediately previous to the loss. If said policy or policies contain a Demolition and Increased Cost of Construction Clause, so-called, or any other provision defining, limiting or enlarging the measure or amount of loss or of value such provision shall be followed in so far as it is applicable. In any case where the cost of repairs or reconstruction or replacement be considered as a factor in determining either sound value or the amount of loss or damage the referees shall make suitable allowance for the value and use of any portion of the property saved and shall make a proper deduction for the difference, if any, between the value of new or replaced or repaired property and of that insured.

The referees shall make their award of sound value and of loss or damage in writing, in duplicate original, separately on each item of the policy or policies and such award signed by the referees or a majority of them shall be conclusive and final on the parties hereto as to the sound value of and amount of loss or damage to the property in question, but neither this submission or such award shall in any way affect any other questions than the amounts of sound value and loss or damage, nor waive nor impair any rights of any party hereto.

The assured shall pay the charges and expenses of the Referee nominated by him. The insurance company or companies shall pay the charges and expenses of the Referee nominated by it or them. The charges and expenses of the third referee shall be borne equally, one-half by the assured and one-half by the insurance company or companies parties hereto.

Witness our hands in duplicate original this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_.

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

Agreement for Reference (Front).

Certificate of Choice of Third Referee.																			
<p>We, _____ and _____</p> <p>chosen Referees, as stated in the foregoing instrument, hereby certify that we have selected _____ to act with us as Third Referee in the matter of the loss referred to in said instrument.</p> <p>Witness our hands in duplicate original this _____ day of _____, 192____.</p>																			
Acceptance of Appointment and Oath.																			
<p>COMMONWEALTH OF MASSACHUSETTS.</p> <p>County of _____</p> <p>We, the undersigned, selected as Referees under the foregoing Submission, do hereby accept said appointment, and do severally solemnly swear that we are not related to the assured, either as creditor or otherwise, and are not interested in said property or in any insurance thereon, nor in any business or property conducted or owned by either party to said Submission, that we will act in accordance with the provisions of said Submission and with strict impartiality in making an appraisement of the sound value of and the loss and damage upon the property therein mentioned, that we will make a just and conscientious award of the same, as in said Submission provided according to the best of our knowledge and ability, and that we will make report in writing of our award in duplicate original, one part to be furnished to the assured and one to the insurers, parties to the foregoing Submission as therein provided.</p> <p>Witness our hands in duplicate original.</p>																			
<p>Subscribed and sworn to before me this _____ day of _____, 192____.</p> <p style="text-align: right;">Notary Public or Justice of the Peace</p>																			
Award of Damage.																			
<p>The undersigned Referees hereby certify that after due notice to the parties and after hearing them and after careful consideration of the matters entrusted to us as Referees, we have determined the Sound Value and the Amount of Loss or Damage referred to in the within agreement to be as follows.</p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 60%;"></th> <th style="width: 20%; text-align: center;">SOUND VALUE</th> <th style="width: 20%; text-align: center;">LOSS</th> </tr> </thead> <tbody> <tr> <td>On Item _____</td> <td>\$ _____</td> <td>\$ _____</td> </tr> <tr> <td>On Item _____</td> <td>\$ _____</td> <td>\$ _____</td> </tr> <tr> <td>On Item _____</td> <td>\$ _____</td> <td>\$ _____</td> </tr> <tr> <td>On Item _____</td> <td>\$ _____</td> <td>\$ _____</td> </tr> <tr> <td><b>Total</b> _____</td> <td><b>\$ _____</b></td> <td><b>\$ _____</b></td> </tr> </tbody> </table>			SOUND VALUE	LOSS	On Item _____	\$ _____	\$ _____	On Item _____	\$ _____	\$ _____	On Item _____	\$ _____	\$ _____	On Item _____	\$ _____	\$ _____	<b>Total</b> _____	<b>\$ _____</b>	<b>\$ _____</b>
	SOUND VALUE	LOSS																	
On Item _____	\$ _____	\$ _____																	
On Item _____	\$ _____	\$ _____																	
On Item _____	\$ _____	\$ _____																	
On Item _____	\$ _____	\$ _____																	
<b>Total</b> _____	<b>\$ _____</b>	<b>\$ _____</b>																	
<div style="display: flex; justify-content: space-around; align-items: center;"> <div style="writing-mode: vertical-rl; transform: rotate(180deg);"> <p>Agreement for Reference</p> <p>LOSS BY FIRE</p> </div> <div style="writing-mode: vertical-rl; transform: rotate(180deg);"> <p>Parties of</p> </div> </div>																			

Agreement for Reference (Reverse).

# APPENDIX J

## PROOF OF LOSS AND LETTERS OF REJECTION

POLICY NUMBER	<b>SWORN STATEMENT</b> <b>IN</b> <b>PROOF OF LOSS</b> <b>TO THE</b>	AMOUNT OF POLICY \$ ISSUED      \$ EXPIRES 19      19
AGENCY AT	OF	
BY THE ABOVE NUMBERED POLICY OF INSURANCE YOU INSURED		
AGAINST LOSS BY FIRE UPON THE PROPERTY DESCRIBED UNDER SCHEDULE "A", ACCORDING TO THE TERMS AND CONDITIONS OF THE SAID POLICY AND ALL FORMS, ENDORSEMENTS, TRANSFERS AND ASSIGNMENTS ATTACHED THERETO		
(1) TIME AND ORIGIN: A FIRE OCCURRED ON THE _____ DAY OF _____ 19____ ABOUT THE HOUR OF _____ O'CLOCK _____ M. THE CAUSE AND ORIGIN OF THE SAID FIRE WERE.		
(2) OCCUPANCY: THE BUILDING DESCRIBED, OR CONTAINING THE PROPERTY DESCRIBED WAS OCCUPIED AT THE TIME OF THE FIRE AS FOLLOWS, AND FOR NO OTHER PURPOSE WHATEVER:		
(3) TITLE AND INTEREST: AT THE TIME OF THE FIRE, THE INTEREST OF YOUR INSURED IN THE PROPERTY DESCRIBED BY THIS POLICY WAS SOLE AND UNCONDITIONAL OWNERSHIP, AND NO OTHER PERSON OR PERSONS HAD ANY INTEREST THEREIN OR INCUMBRANCE THEREON, EXCEPT:		
(4) CHANGES: SINCE THE SAID POLICY WAS ISSUED THERE HAS BEEN NO ASSIGNMENT THERE OF, OR CHANGE OF OWNERSHIP, USE, OCCUPANCY, POSSESSION, LOCATION OR EXPOSURE OF THE REAL OR PERSONAL PROPERTY DESCRIBED OR OF YOUR INSURED'S INTEREST THEREIN, EXCEPT		
(5) TOTAL INSURANCE: THE TOTAL AMOUNT OF INSURANCE UPON THE PROPERTY COVERED BY THIS POLICY WAS, AT THE TIME OF THE FIRE, \$ _____ AS MORE PARTICULARLY SPECIFIED IN THE APPORTIONMENT ATTACHED UNDER SCHEDULE "C. BESIDES WHICH THERE WAS NO POLICY OR OTHER CONTRACT OF INSURANCE, WRITTEN OR ORAL, VALID OR INVALID.		
(6) THE CASH VALUE OF SAID PROPERTY AT THE TIME OF THE FIRE WAS \$ _____		
(7) THE WHOLE LOSS AND DAMAGE AS STATED UNDER SCHEDULE "B" WAS \$ _____		
(8) THE AMOUNT CLAIMED UNDER THE ABOVE NUMBERED POLICY IS \$ _____		
THE SAID LOSS DID NOT ORIGINATE BY ANY ACT DESIGN OR PROCUREMENT ON THE PART OF YOUR INSURED, OR THIS AFFIANT. NOTHING HAS BEEN DONE BY OR WITH THE PRIVACY OR CONSENT OF YOUR INSURED OR THIS AFFIANT, TO VIOLATE THE CONDITIONS OF THE POLICY OR RENDER IT VOID. NO ARTICLES ARE MENTIONED HEREIN OR IN ANNEXED SCHEDULES BUT SUCH AS WERE IN THE BUILDING DAMAGED OR DESTROYED AND BELONGING TO AND IN POSSESSION OF THE SAID INSURED AT THE TIME OF SAID FIRE. NO PROPERTY SAVED HAS IN ANY MANNER BEEN CONCEALED AND NO ATTEMPT TO DECEIVE THE SAID COMPANY AS TO THE EXTENT OF SAID LOSS HAS IN ANY MANNER BEEN MADE. ANY OTHER INFORMATION THAT MAY BE REQUIRED WILL BE FURNISHED ON CALL AND CONSIDERED A PART OF THIS PROOF.		
THE FURNISHING OF THIS BLANK OR THE PREPARATION OF PROOFS BY A REPRESENTATIVE OF THE ABOVE INSURANCE COMPANY IS NOT A WAIVER OF ANY OF ITS RIGHTS.		
STATE OF _____		
COUNTY OF _____		INSURED
SUBSCRIBED AND SWORN TO BEFORE ME THIS _____ DAY OF _____ 19____		
_____ NOTARY PUBLIC		

Proof of Loss (Page 1).





<p style="text-align: center;"><b>CLAIM NO.</b> _____</p> <p style="text-align: center;"><b>SWORN STATEMENT IN PROOF OF LOSS</b></p> <p style="text-align: center;">TO THE</p> <p style="text-align: center;"><b>INSURANCE COMPANY</b></p> <p style="text-align: center;">OF</p> <p style="text-align: center;"><b>INSURANCE COMPANY</b></p> <p style="text-align: center;"><b>ADJUSTER</b></p> <p style="text-align: center;">RECOMMENDED BY THE NATIONAL BOARD OF FIRE UNDERWRITERS, FEDERAL CREDIT RATING CO., INC. NEW YORK CITY</p>	<p style="text-align: center;"><b>RECEIPT FOR PAYMENT</b></p> <p>Received of _____ Insurance Co. of _____</p> <p style="text-align: right;">_____ 19__</p> <p style="text-align: right;">DOLLARS (\$ _____) IN FULL</p> <p>SATISFACTION AND INDEMNITY FOR ALL CLAIMS AND DEMANDS UPON SAID COMPANY ON ACCOUNT OF LOSS AND DAMAGE BY FIRE WHICH</p> <p>OCCURRED ON THE _____ DAY OF _____ TO PROPERTY DESCRIBED IN POLICY NO. _____ OF</p> <p>SAID COMPANY ISSUED BY ITS AGENT AT _____ AND THE SAID POLICY IS HEREBY _____</p> <p>(STATE WHETHER REDUCED OR CANCELLED BY PAYMENT)</p> <p style="text-align: right;">_____</p> <p style="text-align: right;">THE INSURED.</p>
<p style="text-align: center;"><b>LOST POLICY RECEIPT</b></p> <p style="text-align: right;">_____ 19__</p> <p>THE UNDERSIGNED HEREBY DECLARES THAT THE POLICY DESCRIBED HEREIN HAS BEEN MISLaid, LOST OR DESTROYED, AND FURTHER</p> <p>DECLARES THAT IT HAS NOT BEEN ASSIGNED OR TRANSFERRED (EXCEPT AS SHOWN HEREIN). UPON PAYMENT OF THE AMOUNT CLAIMED HERE-</p> <p>IN THE UNDERSIGNED HEREBY SPECIFICALLY AGREES TO INDEMNIFY AND SAVE HARMLESS THE WITHIN NAMED INSURER AGAINST ANY CLAIM,</p> <p>DEMAND OR SUIT UNDER SAID POLICY AND IF THE POLICY IS FOUND, TO RETURN IT IMMEDIATELY TO SAID INSURER WITHOUT FURTHER COMPENSA-</p> <p>TION.</p> <p>Witness _____</p> <p style="text-align: right;">_____</p> <p style="text-align: right;">THE INSURED.</p> <p style="text-align: right;">_____</p> <p style="text-align: right;">THE MORTGAGEE.</p>	

Proof of Loss (Page 4).

## LETTERS REJECTING PROOFS OF LOSS

When the time for filing proof of loss has not been extended in writing and after the expiration of 60 days a proof of loss is received, the following form of letter is often used in returning the proof which should first be photostated so that the company shall have a reliable copy:

Mr. John Doe,  
1 Main Street,  
America City, N. Y.

Dear Sir:

The enclosure was received this first day of January, 1929, and is returned respectfully declined because not filed within the time required by the conditions of the policy referred to therein.

Yours very truly,

Blank Insurance Co.

By.....

Adjuster

When a proof of loss has been received within the required time and has been found to be defective, it is often rejected by a letter similar to the following specimen:

Mr. John Doe,  
1 Main Street,  
America City, N. Y.

Dear Sir:

re: *Claim, Policy No. 1*

A paper signed by you purporting to be a proof of loss has been received by us and we hereby give you notice that said paper cannot be accepted as a proof of loss for the following among other reasons, to wit:

The said paper does not state the interest of the insured and all others in the property.

The said paper does not state by whom or for what purpose the building described was occupied.

The paper does not state whether there had been any change in the title, use, occupation, location, or possession of the property since the issuing of the policy.

We, therefore, decline to accept the so-called proof of loss and hold the same in this office subject to your order.

Yours very truly,

Blank Insurance Co.

By.....

Adjuster

## APPENDIX K

### DEMAND FOR EXAMINATION UNDER OATH

ATLANTA, GA.

Atlanta, Georgia, February 26, 1912.

Re: *Claim under ——— Fire Insurance Co.'s Policy*  
*Fire of January 4, 1912.*

Dear Sirs:

In answer to your communications of February 14th and 21st concerning the above claim, the ——— Fire Insurance Company does hereby advise you that, as provided for by the conditions of the above numbered Policy Contract as set forth in Lines 81 to 85 thereof, reading:

"The insured, as often as required, shall exhibit to any person designated by this Company all that remains of any property herein described, and submit to examination under oath by any person named by this Company, and subscribe the same; and, as often as required, shall produce for examination all books of account, bills, invoices, and other vouchers, or certified copies thereof if originals be lost, at such reasonable place as may be designated by this Company or its representatives, and shall permit extracts and copies thereof to be made."

it requires you to submit to examination under oath and to subscribe the same concerning your claim for loss and damage by fire said to have occurred on or about January 4th, 1912, to property alleged to be insured under aforesaid Policy, for which purpose the ——— Fire Insurance Company desires Mr. ——— and Mr. ——— to present themselves at their place of business at ——— at 10 A. M., Thursday, February 29th, 1912 to answer such interrogatories as may then be put to them by ——— or ——— whom the ——— Fire Insurance Company have designated to conduct such examination on their behalf.

[ The ——— Fire Insurance Company does hereby require you to produce at the above designated time and place for the examination of the said ——— or ——— the above named Policy and all other Fire Insurance Policies, and or binders, and or other contracts for insurance covering in whole or in part on said described property, together with all books of account, including Bank Books, Check Books, Stub Books, Receipt

Books, Bank Accounts and Statements, Notes, Checks and Canceled Checks, and all Bills, Invoices and other Vouchers or certified copies thereof, if the originals have been lost, covering purchases of and or sale of and or the interest in or title to the property which you claim was insured under above numbered policy, and permit the said \_\_\_\_\_ or \_\_\_\_\_ to make extracts and copies thereof.

In making this demand for examination under oath and the production of the above enumerated documents, the \_\_\_\_\_ Fire Insurance Company neither admits nor denies liability for any loss that may have been sustained to the property described as insured in the above Policy, nor does it waive any defense that may exist there under, this demand being made under the conditions of said Policy as set forth in Lines 92 and 93 reading:

“This Company shall not be held to have waived any provision or condition of this Policy or any forfeiture thereof by any requirements act, or proceeding on its part relating to the appraisal or to any examination herein provided for.”

It it is not possible for \_\_\_\_\_ and \_\_\_\_\_ to be present at the time and place above designated, or to then and there produce the above enumerated documents, kindly advise us promptly of that fact and we will arrange to make a date that will meet our mutual convenience.

Very truly yours,

Adjuster.

February 23rd, 1929.

To:

\_\_\_\_\_, Corporation,  
\_\_\_\_\_, President,  
\_\_\_\_\_, New York.

PLEASE TAKE NOTICE that the

\_\_\_\_\_ Insurance Co. of New Jersey under the terms of its policy number.  
\_\_\_\_\_ Fire Insurance Co. under the terms of its policy number.  
\_\_\_\_\_ Insurance Co. of America under the terms of its policy number.

under the terms of which policies you have rendered sworn Proofs of Loss arising out of the fire of November 14, 1928, demand that you submit to examination under oath by \_\_\_\_\_ and that you subscribe the same. The office of Messrs. \_\_\_\_\_, on the twelfth floor of No. \_\_\_\_\_ Broadway, Borough of Manhattan, New York City, is hereby designated as the place, and the hour of 11 a. m. on Thursday, January 2, 1929, as the time for the commencement of the examination.

Please bring with you at said time and place your deeds to the property described in said policies of insurance.

Yours truly,

———— INSURANCE CO. OF N. J.,  
———— FIRE INSURANCE CO.  
———— INSURANCE CO. OF AMERICA.

By

ADJUSTER.

## APPENDIX L

### CERTIFICATE OF SATISFACTION

To Phoenix Assurance Company, Ltd., of London.

I hereby Certify that building No. \_\_\_\_\_ insured by  
your Company, under Policy No. \_\_\_\_\_ expiring \_\_\_\_\_ 19  
was damaged by fire on the \_\_\_\_\_ day of \_\_\_\_\_,  
19 \_\_\_\_\_, and that all damage thereto has been fully repaired to  
satisfaction, by ..

I further certify that there was insurance on said building to the amount of  
\$ \_\_\_\_\_ and no more, as per the following list:

\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

## APPENDIX M

### SUPPLEMENTARY AGREEMENT

**Supplementary Agreement** to be attached to Proofs of Loss covering claim under  
Policy No. \_\_\_\_\_ of the \_\_\_\_\_ Ins. Co of \_\_\_\_\_

It is hereby understood and agreed between \_\_\_\_\_  
of \_\_\_\_\_ and the \_\_\_\_\_ Ins. Co. (through  
its adjuster) whose names are signed hereto, that, in compromise settlement, the sound  
value of and loss to property, by fire of \_\_\_\_\_ is fixed as follows

	SOUND VALUE	LOSS
On _____	\$ _____	\$ _____
On _____	\$ _____	\$ _____
On _____	\$ _____	\$ _____
On _____	\$ _____	\$ _____
On _____	\$ _____	\$ _____

instead of as heretofore claimed and the said \_\_\_\_\_  
agree to accept from this Company the sum of \_\_\_\_\_  
\_\_\_\_\_ Dollars (\$

as its proportion of said loss under this agreement.

IN WITNESS whereof the presents have been signed at \_\_\_\_\_  
this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_

\_\_\_\_\_  
ASSURED

\_\_\_\_\_  
Adjuster of the  
Ins Co of \_\_\_\_\_

# APPENDIX N

## SUBROGATION RECEIPTS

SUBROGATION RECEIPT.	
\$.....	Received of THE HOME INSURANCE COMPANY, NEW YORK, No. 56 Cedar Street, New York City, New York, through .....
Agent, the sum of .....	Dollars,
(\$.....) being in full of all claims and demands for loss and damage by fire on the.....day of..... 19 .....	
to the property insured by policy No..... issued at the..... Agency of said Company.	
<p>The said The Home Insurance Company having duly required subrogation the undersigned hereby assigns, transfers and sets over to the said The Home Insurance Company, its successors and assigns, any and all claims, demands, suits and rights of action against all persons, firms and corporations whatsoever arising out of or connected with, the said fire in the extent of the said payment and hereby authorizes and empowers said The Home Insurance Company to settle and compromise the same and to institute any and all actions, suits and proceedings at law or in equity for the recovery thereof, in the name of the undersigned or in the name of said The Home Insurance Company as it may desire.</p> <p>The undersigned hereby accedes with said The Home Insurance Company that he has not released, waived, discharged, sold, assigned, transferred, pledged or otherwise disposed of any of said claims, demands, suits or rights of action and that he will furnish to said The Home Insurance Company all papers, documents, information and assistance which may be required by the company.</p>	
Dated this.....day of..... 19..... at.....	



# **SUBROGATION RECEIPT AND ASSIGNMENT**

RECEIVED of the \_\_\_\_\_  
 of \_\_\_\_\_, the sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_).  
 being in full of all claims and demands for loss and damage by fire which occurred on the \_\_\_\_\_  
 day of \_\_\_\_\_ to property insured under \_\_\_\_\_  
 Policy numbered \_\_\_\_\_ issued at the \_\_\_\_\_ Agency of said Company.

Now therefore, in consideration of said payment, we hereby assign, set over, transfer, subro-  
 gate and substitute the said \_\_\_\_\_

of \_\_\_\_\_ its successors and assigns, to any and all rights, claims,  
 interests or action which we have or ought to have against the \_\_\_\_\_

\_\_\_\_\_ who may be liable or hereafter adjudged liable for the burning or destruction of said property, or  
 against any person, persons or corporation, to the extent of the said sum of \_\_\_\_\_

\_\_\_\_\_ and we hereby assign, transfer and set over the same to  
 the said \_\_\_\_\_

of \_\_\_\_\_ or its successors or assigns as aforesaid. In accordance with  
 the terms of said Policy of Insurance, which are:

" If this Company shall claim that the fire was caused by the act or  
 neglect of any person or corporation, private or municipal, this Com-  
 pany shall on payment of the loss be subrogated to the extent of such  
 payment to all right of recovery by the Assured for the loss resulting  
 therefrom, and such right shall be assigned to this Company on re-  
 ceiving such payment."

We hereby expressly authorize and empower the said \_\_\_\_\_  
 \_\_\_\_\_ to sue, compromise or settle in \_\_\_\_\_ name or otherwise  
 to the extent of the money paid as aforesaid. It being understood that any action taken by said  
 \_\_\_\_\_ shall be without charge or cost to \_\_\_\_\_  
 or to \_\_\_\_\_ legal representative.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 192\_\_\_\_, at \_\_\_\_\_

WITNESS:

\_\_\_\_\_  
 \_\_\_\_\_

## APPENDIX O

### LOAN RECEIPT

Policy No..... Agency .. ..... Amount \$.....  
Date of Loss..... Kind of Loss.....

.. ...LOAN RECEIPT

.....INSURANCE COMPANY

of

.....

Dated .....

RECEIVED from the .. ...Insurance Company the  
sum of.. .....Dollars, being a loan,  
without interest, pending ascertainment as to whether the circumstances  
pertaining to loss or damage indicated below, are of such nature that any  
other person or corporation may be liable or responsible for the same:

.....  
.....  
.....  
.....  
.....  
.....

In event of recovery from any person or persons, it is stipulated that the  
signer hereof is obligated to refund this loan to the said .....  
Insurance Company of....., at the same time and in the same  
proportion as such recovery shall be made.

.....

WITNESSES

.....  
.....  
.....

# APPENDIX P

## MORTGAGEE, ARTICLES OF SUBROGATION AND ASSIGNMENT

### ARTICLES OF SUBROGATION AND ASSIGNMENT

Be it Known, That the \_\_\_\_\_ Insurance Company,  
of \_\_\_\_\_ did insure  
under its Policy No. \_\_\_\_\_ issued at its Agency at \_\_\_\_\_ as follows

for the period of \_\_\_\_\_ years, commencing on the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_  
and continuing until the \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, to which said Policy there  
was attached a Mortgage Clause making loss or damage under said Policy payable for assured's account unto  
\_\_\_\_\_ trustee or mortgagee or \_\_\_\_\_ successors in trust, as  
interest may appear and providing that whenever said Company should pay any sum for loss under said Policy  
No. \_\_\_\_\_ and should claim that as to the grantors in the mortgage or trust deed, or to the owners of the prop-  
erty so insured, no liability therefor existed then said Company should at once be subrogated to all the rights of the  
said trustee or mortgagee under all the securities held for the debt by him or them.

Said mortgage or trust deed having been given by \_\_\_\_\_  
to \_\_\_\_\_ and dated the \_\_\_\_\_ day of \_\_\_\_\_ A. D. 19\_\_\_\_,  
and recorded on the \_\_\_\_\_ day of \_\_\_\_\_ A. D. 19\_\_\_\_, in the Recorder's Office of  
\_\_\_\_\_ County, in the State of \_\_\_\_\_ in book  
of \_\_\_\_\_ at page \_\_\_\_\_. And it appearing that on the \_\_\_\_\_ day of  
\_\_\_\_\_ 19\_\_\_\_, a fire occurred by which the property originally insured was damaged or destroyed  
to the amount of \_\_\_\_\_ Dollars, and the said

Insurance Company hereby claiming that, as to the said assured under  
the said Policy and the present owner of the property so insured under said Policy above mentioned, no legal claim  
exists against said Company, and that said Company is in no manner liable to them or either of them under the terms  
and conditions of said Policy. Now, THEREFORE, in consideration of \_\_\_\_\_ Dollars,  
this day paid to \_\_\_\_\_ the trustee or mortgagee under said mortgage clause by  
said \_\_\_\_\_ Insurance Company, the receipt whereof is hereby acknowledged,  
said sum being in full settlement of said Company's liability to said trustee or mortgagee by reason of said loss and  
damage under said Policy, the said \_\_\_\_\_ mortgagee or trustee does hereby  
assign set over transfer and subrogate to the said \_\_\_\_\_ Insurance Company all the  
right, title claim and interest to the amount of \_\_\_\_\_ Dollars which

\_\_\_\_\_ the said \_\_\_\_\_ trustee or mortgagee has in said trust deed or  
mortgage above described, and in and to the note or notes therein described. And it is agreed that all interest which  
hereafter accrues upon said sum of \_\_\_\_\_ Dollars aforesaid,  
shall insure and be paid to said Insurance Company and that no release of any kind or for any amount of said notes or  
mortgage or any part thereof, shall be made by said trustee or mortgagee until said Company shall have received  
therefrom said sum of \_\_\_\_\_ Dollars, paid said trustee or mortgagee  
as aforesaid, with interest thereon at the same rate as provided in and by said notes from the date hereof until paid.

Said \_\_\_\_\_ trustee or mortgagee, hereby authorizes and empowers  
said \_\_\_\_\_ Insurance Company to sue, foreclose, compromise or settle, in  
name or otherwise, for said amount, and it is hereby fully substituted in \_\_\_\_\_ place and subrogated to all \_\_\_\_\_ rights  
in the premises to the amount so paid, it being agreed, however, that any action taken by said Company shall be with-  
out cost to said \_\_\_\_\_ trustee or mortgagee, as aforesaid.

\_\_\_\_\_  
Trustee [SEAL]

\_\_\_\_\_  
Legal Owner of Said Sum. [SEAL]

STATE OF \_\_\_\_\_ ss.  
COUNTY OF \_\_\_\_\_  
a \_\_\_\_\_ in and for said County, in the State aforesaid, do hereby certify that

\_\_\_\_\_ personally known to me to be the same person whose name  
is subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that he signed,  
sealed and delivered the said instrument as his free and voluntary act, for the uses and purposes therein set forth.

Given under my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_ A. D. 19\_\_\_\_

## APPENDIX Q

### REPORT ON ADJUSTED LOSS

YOUR FILE#  
OUR FILE#

June 19, 1925.

Allen E. Clough, Esq., Secretary,  
123 William Street,  
New York City.

Dear Sir:

#### Report on Adjustment

Assured.—The ..... (Pres.: .....; Vice Pres.: .....;  
Secy.: .....; Treas.: .....)

Risk.—Building, Stock (Trade Department), Stock (Publishing Department), Machinery, Contents, Cameras and Apparatus situated....  
West . Street, New York City.

Building and Occupancy.—Three-story high-stoop brick-and-stone building with cellar and one-story rear extension occupied entirely by the assured for office purposes, publishing, and storage of property of Publishing, Trade and Industrial Departments and of Officers personal effects.

Date of Fire.—Thursday, March .., .... at about 10.40 p.m.

#### Insurance as Reported to Us.

Building.. . . .	\$25,000.00
Stock (Trade Department).... .	75,000.00
Stock (Publishing Department.) . . . . .	24,000 00
Machinery..... .	18,000.00
Contents:	
Specific..... .	\$5,000 00
Floater . . . . .	10,000 00
Cameras, etc.. . . . .	1,000.00
	\$15,000.00

Assured's Representatives.— . . . . & Co., .. Nassau Street, New York City. . . . .

Origin Unknown.—(The fire originated on the second floor and extended to the first, third, and through roof, causing serious damage throughout. It was said to have started after everyone had left the building and to have been discovered by soldiers in the armory on the opposite side of the street. Several alarms were turned in.)

## ASSURED'S CLAIM

	Sound Value	Loss	Insurance	Companies Pay
Building . . . . .	\$ 56,250 00	\$40,395 00	\$ 25,000 00	\$22,441 67
Stock (Trade Department)	107,795.15	97,015 64	75,000 00	75,000 00
Stock (Publishing Department)	23,428.73	23,428 73	24,000 00	23,428 73
Machinery . . . . .	22,892 55	6,246 45	18,000 00	6,139 35
Contents				
Specific . . . . .	15,904 68	13,970.22	5,000 00	5,000.00
Excess floater				
All locations . . . . .	(258,545 00)		(234,000 00)	
On fire premises . . . . .	13,078 96	11,954 39	10,000 00	10,000 00
Cameras, etc . . . . .	1,308 50	1,200.00	1,000 00	1,000.00

## ADJUSTMENT

Building . . . . .	\$ 57,869 50	\$28,703 28	\$25,000.00	\$15,500.00
Stock (Trade Department) . . . . .	111,711 25	89,460.52	75,000 00	75,000.00
Stock (Publishing Department) . . . . .	15,706 24	10,444.43	24,000.00	10,444.43
Machinery . . . . .	32,500 00	4,954.17	18,000 00	3,429 81
Contents				
Specific Ins . . . . .	15,904 68	13,970.22	5,000 00	5,000.00
Excess floater Insurance				
All locations . . . . .	(258,545 00)		(234,000 00)	
On fire premises . . . . .	13,078 96	11,954.39	10,000 00	10,000 00
Cameras, etc . . . . .	1,308 50	1,200 00	1,000 00	1,000.00

**Building.**—Newspapers, a few days previous to the fire, announced that this building soon would be torn down and replaced by a modern structure. The assured stated that this was their ultimate intention but that it could not be done until they had sufficient money on hand which would not be for a year or more and that, in the meantime, they intended to make repairs by reducing the building one story in height. We understand that the original building was reduced two stories in height after a previous fire in February, . . . . For other reasons, also, the assured claimed that this fact should have no bearing on the adjustment and, after discussion with you and the interested Company, it was decided not to go into this feature.

The assured presented an estimate made by . . . . , Bulder, . . . Canal Street, as indicated under "Claim," whereby the collectible loss would be \$22,441.67.

Messrs. . . . . Sons, for the Company, estimated the replacement value at \$82,000. with a loss of \$34,937.70 and deducted 25 per cent for depreciation making the sound value \$61,500 with a loss of \$26,203.28. Allowance of \$2,500 for cutting out burned materials and removing debris raised their estimate to \$28,703.38 which would mean a collectible loss of \$14,585, or \$22,852.70 less than the amount necessary for the restoration of the building.

Agreement was reached as shown by figures under "Adjustment" whereby the collectible loss is \$15,500.

**Stock (Trade Department).**—The assured presented a statement of stock on hand amounting to \$107,795.15 and claimed a 90 per cent loss as indicated under "Claim" above. Your committee was given to understand that

this figure represented a transcript of the assured's perpetual inventory record, which record was supposed to be based on an actual physical inventory taken Sept. 30, 1924.

We felt that the figure presented was probably the result of honest work on the part of the assured's clerical department, but as several material inaccuracies had been brought to light in previous checkings, decided that a verification was in order, for which purpose the office of Public Accountant . . . ., . Fulton Street, was retained. On April 28, Mr. . . . . handed in his report indicating that a check of perpetual inventory, and certain other records connected therewith, showed a correct figure of \$111,562 60. It was found that the assured had failed to include in their summary pages 47 and 48 of the schedule amounting to \$3,767.45 which increased the value to \$111,711.25 and this figure of sound value was accepted.

In the meantime, stock representing a value of \$37,292.29 was removed for better protection and ascertainment of loss as follows:

	Value
Band instruments . . . .	\$ 3,452 09, by . . . . Band Instrument Co., Inc., . E. 14th Street
Piece goods. . . . .	11,231.70, by . . . . Cloth Examining and Shrinking Works, Inc., . . . . W. 14th Street
Other stock. . . . .	22,608 50, by Underwriters Salvage Company to . . West 14th Street
Total removed . . . . .	<u>\$37,292 29</u>
Stock left. . . . .	<u>74,418.96</u>
Total. . . . .	\$111,711 25

The . . . . .Band Instrument Co. estimated the cost of restoring band instruments as nearly as possible to the condition of new stock at \$1,900.00

The Underwriters Salvage Company estimated a loss of 30 per cent, or \$6,782.55 on stock removed by it.

The stock left in the wrecked buildings was of some value, but the assured, Mr. . . . . and your committee, after a careful examination, were agreed that any salvage realized from this portion of the stock would be no more than sufficient to cover the expense of handling.

Loss was agreed upon in accordance with the figures shown under "Adjustment" above and arrived at as follows:

	Value	Loss
Band instruments. . . .	\$ 3,452 09	\$ 1,900 00
Piece goods. . . . .	11,231.70	5,605.39—(estimate enclosed)
Stock removed. . . . .	22,608 50	7,536 17 33½ per cent
Stock left on premises. . . .	<u>74,418 96</u>	<u>74,418.96</u>
Total . . . . .	\$111,711 25	\$89,460.52

Depreciation, as indicated by the accountant's report, applied to too small a portion of the stock to affect the result of loss total to the insurance.

**Stock (Publishing Department).**—The assured, under this item, filed a schedule showing value of \$23,428 73 and claimed a total loss.

As the assured's schedule was apparently taken from book records, the Underwriters Salvage Company in checking the schedule found it more expedient to reinventory the stock and their inventory enclosed amounted to \$15,706 24. They were of the opinion that the loss would approximate 60 per cent and that the stock was an undesirable salvage proposition. Examination as to the cause of discrepancy between schedules showed that it was more than accounted for by a clerical error in totaling the weights of roll paper on page 4 as 237,233 pounds instead of 66,223 pounds.

We at first offered the assured to agree on a 60 per cent loss and later increased this to 66⅔ per cent, or \$10,470.83. Mr. . . . . stated that he had no facilities for using damaged roll paper representing \$3,115 19, of the value. We said we would undertake to get a buyer who would give him the amount we were claiming as salvage on this portion of the stock but could not do the same on the remaining \$7,591.05 portion as the insured's mark made much of it useless for any other user. With the assistance of Mr. . . . . , a buyer was obtained for the roll paper and net proceeds of \$2,731.46 turned over to the assured after which our figure was accepted on the balance of the stock making the loss \$10,444.43 *viz.*,

	Value	Salvage	Loss
Roll and book paper..	\$8,115 19	\$2,731 46	\$5,383.73
Balance of stock.....	7,591 05		5,060 70—66⅔ per cent
	<u>\$15,706 24</u>		<u>\$10,444 43</u>

**Machinery.**—The assured first filed a schedule showing a sound value of \$21,554.50 and claiming a loss of \$4,908.40, later increased by a supplementary schedule amounting to \$1,338.05 which made the total sound value \$22,892.55 and loss \$6,246 45.

We ask Mr. . . . . for an estimate and, later, at your suggestion, also asked for an estimate from Messrs. . . . .

At the time we first looked at the loss, . . . . . expressed a desire to resume publication as quickly as possible and asked permission to remove machinery to . . West 14th Street. As this would also operate to the advantage of the companies by restricting the damage to practically a cleaning proposition confined to the shortest possible time, permission was readily granted.

Estimates from Messrs . . . . . and . . . . ., details of which are fully covered in their reports, were received as follows:

	Sound Value	Loss	Companies Pay
Mr. ——— .....	\$35,532 35	\$4,754 17	\$3,010.46
Mr. ——— ....	35,571 95	5,253 00	3,322.63
Adjustment in compromise was as follows:			
	\$32,500.00	\$4,954 17	\$3,429.81

**Contents.**—The assured filed a schedule showing sound value \$20,863 68; loss \$19,479.11. Loss was total except to furniture valued at \$4,065 25 (assured's statement \$3,915.25) removed by the Underwriters Salvage Company to West 14th Street and which was badly damaged by water. The claim was allowed with sound value and loss under the specific and excess floater policies as shown under "Adjustment" and by details enclosed.

**Cameras, Etc.**—The assured's claim shown above was allowed as per details shown on the schedule.

#### ENCLOSURES

**Building.**—Assured's estimate made by ....; Messrs. .... estimate  
**Stock (Trade Department).**—Assured's schedule; Agreement to remove stock for better protection; Underwriters Salvage Company's schedule of stock and fixtures removed for protection with report dated April 17; estimate of. . . . . Band Instrument Co.; report of The . . . . . Cloth Examining and Shrinking Works with adjusters' estimate of damage to piece goods; report of Accountant . . . . .

**Stock (Publishing Department).**—Assured's schedule; Underwriters Salvage Company's schedule with report dated April 15 and record of sales of book and roll paper.

**Machinery.**—Assured's schedule with details of claim and of Mr. .... estimate thereon; assured's supplementary schedule; Mr. ....'s report of June 3, Mr. ....'s report of May 26 with details of estimate.

**Contents.**—Assured's schedule of value and loss; statement of sound value and loss under specific and excess floater policies; assured's statement of sound value under excess floater policy:

**Cameras, Etc.**—Assured's schedule with adjusters' estimate thereon

**General.**—Adjustment agreement: Actuarial Bureau report; previous loss record slip.

**Bills for Services.**—Underwriters Salvage Company (2); Messrs. .... Sons; .....; .....; .....; Adjusters

Yours truly,

..... } COMMITTEE  
 ..... }

#### CONFIDENTIAL REPORT TO WESTERN ADJUSTMENT AND INSPECTION CO. OF CHICAGO, ILL.

**Origin.**—*Comment, if pertinent,* on who discovered and extinguished fire; where first burning; work of Fire Department or Salvage Corps; operation of sprinklers, fire doors, etc.; weather; inherent hazards; what debris shows; any explosion; use of prohibited articles, stills, etc.; adjuster's theory of origin, etc.

**Investigation.**—*Comment, if pertinent,* on character and reputation of insured; previous fires, bankruptcies, residence and business experience; motives for fire; result of investigation by Fire Marshal or National Board;



what neighbors or witnesses say; what Court House Records show; goods moved out before or after fire; why over-or undennsured; subrogation possibilities, etc.

**Adjustment.**—*Comment, if pertinent,* on prehlminary service of adjuster; attitude of insured in preserving property during and after fire; amount of claim made; attitude of public adjuster or attorney; appraisal or use of experts; depreciation; salvage; operation of limiting clauses; special difficulties encountered, etc.

**Special.**—*Comment, if pertinent,* on reasons for unusual amount of time spent, expense incurred or delays; policy lost; signature to proofs, if irregular; special recommendations; special enclosures, etc.

# APPENDIX R

## NATIONAL BOARD REPORT

<div style="border: 1px solid black; padding: 2px;"> <small>CLASSIFICATION</small>          Building No. _____          Contents No. _____  <small>(To be filled in by Company)</small> </div>	<small>CONFIDENTIAL</small> <h3 style="margin: 0;">ADJUSTER'S LOSS REPORT</h3> <small>(Must be made for every loss, large or small)</small>	Claim No. _____ of Company _____ Date of Payment _____																																				
<b>Insurance Company of</b> _____																																						
Agency _____	Date of Fire _____ 19__	{ A. M. { P. M.																																				
Full Name of Assured _____ <small>If a corporation, give names of officers. If not a corporation give names of principal owners or interested parties.</small>																																						
<b>LOCATION OF RISK</b> { Street _____ County _____ { No. _____ { City or Town _____ State _____																																						
<b>OCCUPANCY, Sole?</b> _____ If not, portions occupied by Assured _____ <small>If partial occupancy give floors or portions of building.</small>																																						
<b>CONSTRUCTION</b> (brick, frame or fireproof) _____ <b>CAUSE OF FIRE</b> (full detail) _____																																						
Originated on Premises of Assured _____ Of other Tenant? _____ <small>If so, give Name of Tenant and Business</small>																																						
If caused by Lightning, was building properly rodged or not rodged? _____ Floor or place of origin? _____																																						
If fire originated in another building— Distance in feet from risk _____ Construction (brick, frame or fireproof) _____ Occupancy _____ Ownership _____																																						
<b>PROTECTION</b> —Is public hydrant within 500 feet of Risk? _____ Is public fire station within 1½ miles of Risk? _____																																						
<b>WERE LOSS AND CLAIM SATISFACTORY?</b> _____ <b>IN NOT SATISFACTORY, GIVE DETAILS BELOW. VERY IMPORTANT.</b>																																						
<b>OF FIRE</b> It is reported that _____																																						
<b>OF CLAIM</b> It is reported that _____																																						
Previous business of Assured understood to have been _____ " residence " " " " " " " fires " " " " " " " bankruptcies " " " " " " " or business troubles " " " " " "																																						
Has Assured moved, if so, where? _____ Do you recommend that we continue insurance on this Assured? _____ Is any salvage to come? _____ Have we any Subrogation Rights? _____ Was Assured represented by an adjuster or an attorney? _____																																						
<small>Adjusted for Company</small>																																						
If so, give name... _____ Number of Companies on property which this policy covers? _____																																						
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="width: 30%;">Policies on Risk in this Company</th> <th style="width: 30%;">NO.</th> <th style="width: 30%;">SOUND VALUE</th> <th style="width: 30%;">WHOLE LOSS OR DAMAGE TO INSURED PROPERTY</th> <th style="width: 30%;">WHOLE INSURANCE</th> <th style="width: 30%;">AMOUNT PAID UNDER THIS POLICY</th> </tr> <tr> <td>1st Item covering</td> <td>_____</td> <td>\$ _____</td> <td>\$ _____</td> <td>\$ _____</td> <td>\$ _____</td> </tr> <tr> <td>2nd Item covering</td> <td>_____</td> <td>\$ _____</td> <td>\$ _____</td> <td>\$ _____</td> <td>\$ _____</td> </tr> <tr> <td>3rd Item covering</td> <td>_____</td> <td>\$ _____</td> <td>\$ _____</td> <td>\$ _____</td> <td>\$ _____</td> </tr> <tr> <td>4th Item covering</td> <td>_____</td> <td>\$ _____</td> <td>\$ _____</td> <td>\$ _____</td> <td>\$ _____</td> </tr> <tr> <td>5th Item covering</td> <td>_____</td> <td>\$ _____</td> <td>\$ _____</td> <td>\$ _____</td> <td>\$ _____</td> </tr> </table>	Policies on Risk in this Company	NO.	SOUND VALUE	WHOLE LOSS OR DAMAGE TO INSURED PROPERTY	WHOLE INSURANCE	AMOUNT PAID UNDER THIS POLICY	1st Item covering	_____	\$ _____	\$ _____	\$ _____	\$ _____	2nd Item covering	_____	\$ _____	\$ _____	\$ _____	\$ _____	3rd Item covering	_____	\$ _____	\$ _____	\$ _____	\$ _____	4th Item covering	_____	\$ _____	\$ _____	\$ _____	\$ _____	5th Item covering	_____	\$ _____	\$ _____	\$ _____	\$ _____		
Policies on Risk in this Company	NO.	SOUND VALUE	WHOLE LOSS OR DAMAGE TO INSURED PROPERTY	WHOLE INSURANCE	AMOUNT PAID UNDER THIS POLICY																																	
1st Item covering	_____	\$ _____	\$ _____	\$ _____	\$ _____																																	
2nd Item covering	_____	\$ _____	\$ _____	\$ _____	\$ _____																																	
3rd Item covering	_____	\$ _____	\$ _____	\$ _____	\$ _____																																	
4th Item covering	_____	\$ _____	\$ _____	\$ _____	\$ _____																																	
5th Item covering	_____	\$ _____	\$ _____	\$ _____	\$ _____																																	
<b>WHEN MORE THAN ONE COMPANY IS INTERESTED, COPY APPORTIONMENT ON BACK</b>																																						

APPORTIONMENT		
NAME OF COMPANY	INSURANCE	LOSS PAID
TOTALS		

Adjusters Loss Report (Reverse).

## APPENDIX S

### MERCHANDISE IN BOND

#### THE NEW YORK BOARD OF FIRE UNDERWRITERS

##### Committee on Losses and Adjustments

To Members, Companies and Adjusters:

October 30, 1924

#### ADJUSTMENT OF CLAIMS FOR LOSS OR DAMAGE TO CONTENTS OF BONDED WAREHOUSE TARIFF ACT OF 1922 ON IMPORTS INTO THE UNITED STATES

**"Sec. 563, Allowance for Loss—Abandonment.**—In no case shall there be any abatement or allowance made in the duties for any injury, deterioration, loss, or damage sustained by any merchandise while remaining in a bonded warehouse: Provided, That upon the production of satisfactory proof to the Board of General Appraisers of actual injury or destruction, in whole or in part, of any merchandise, by accidental fire or other casualty, while in bonded warehouse, or in the appraiser's stores undergoing appraisal, or while in transportation under bond from one port to another, or while in the custody of the officers of the customs, although not in bond, or while within the limits of any port of entry, and before the same has been landed from the importing vessel or vehicle, such board is hereby authorized to order an abatement or refund, as the case may be, and the Secretary of the Treasury is authorized to pay, out of any moneys in the Treasury not otherwise appropriated, the amount of duties paid. Notice in writing shall be filed with the collector of the district in which such actual injury or destruction was sustained or occurred, and the collector shall transmit such notice together with all papers and documents to the board for due assignment and determination, and such determination shall be final and conclusive upon all persons interested therein except in cases where an appeal may be filed by either party in the United States Court of Customs Appeals within the time and in the manner provided by law: And, provided further, That the consignee may, with the consent of the Secretary of the Treasury, at any time prior to three years from the date of original importation abandon to the Government any merchandise in bonded warehouse and be relieved of the payment of duties thereon. Provided, That the portion so abandoned shall not be less than an entire package and shall be abandoned in the original package without having been repacked while in bonded warehouse.

**"Sec. 564, Liens.**—That whenever a collector of customs shall be notified in writing of the existence of a lien for freight, charges, or contribution in

general average upon any imported merchandise sent to the appraiser's store for examination, entered for warehousing or taken possession of by him, he shall refuse to permit delivery thereof from public store or bonded warehouse until proof shall be produced that the said lien has been satisfied or discharged. The rights of the United States shall not be prejudiced or affected by the filing of such lien, nor shall the United States or its officers be liable for losses or damages consequent upon such refusal to permit delivery. If merchandise, regarding which such notice of lien has been filed, shall be forfeited or abandoned and sold, the freight, charges, or contribution in general average due thereon shall be paid from the proceeds of such sale in the same manner as other lawful charges and expenses are paid therefrom.

**"Sec. 565, Cartage.**—The cartage of merchandise entered for warehouse shall be done by cartmen to be appointed and licensed by the collector of customs and who shall give a bond, in a penal sum to be fixed by such collector, for the protection of the government against any loss of or damage to, such merchandise while being so carted. The cartage of merchandise designated for examination at the appraiser's stores and of merchandise taken into custody by the collector as unclaimed shall be performed by such persons as may be designated, under contract or otherwise, by the Secretary of the Treasury, and under such regulations for the protection of the owners thereof and of the revenue as the Secretary of the Treasury shall prescribe."

From present experiences it will probably be necessary to appear before the Board of General Appraisers, which sits as a Court, by attorneys licensed to practice before it. What our further experience will show is yet to be determined.

As the adjustment of all such losses in the Metropolitan District come under the jurisdiction of the New York Board of Fire Underwriters it seems not amiss to call your attention to some important features as shown by our considerable experience, particularly during the past year.

We are obliged to deprecate any adjustment through which the Insurance Companies are compelled to take over the expense and trouble (and both are always considerable) of applying for and/or collecting any abatement and/or refund of duties, unless the policy contract clearly indicates that the Companies are so to do, or unless in no other way can the loss be minimized.

To take over the protection and sale of damaged goods it has been necessary to arrange with the Underwriters Salvage Company and Messrs. Woodrow & Lewis to temporarily bond portions of their warehouses and put them under the control of Government Custodians. All this costs money and in itself suggests the advisability of adjusting losses, if possible to do so properly, while property is in the original bonded warehouse.

We therefore suggest that the following form, which is used by some companies, would seem to meet the necessity of the situation when it is desired to exclude the duty as a part of the value:

(a) "It is understood and agreed that the Customs duties payable to the United States Government on property covered by this policy shall not be

considered as part of the value insured in event of loss or damage.

"It is also understood and agreed that on demand of this Company, in the event of loss, the insured shall, "to protect the property from further damage," promptly pay all government duties, warehouse and other charges necessary for the purpose of removal of said merchandise to such other location as may be designated by this Company."

If otherwise, the following should always be used:

(b) "It is understood and agreed that the Customs duties paid or payable to the United States Government on property covered by this policy shall be considered a part of the value insured in event of loss or damage."

It is very important that the question of liability for duties should be clearly stated in the policy form, and not left for argument after the damage has occurred.

The tendency and practice of adjusters seems to be to regard the adjustment of bonded warehouse claims from the standpoint of the ordinary fire loss. A study of the effects of this course shows that it is not the better way.

Losses arising out of bonded warehouse fires involve the question of duties and that fact means that in most cases a recovery of duties paid will be sought, either by the assured (owner) or the insurance companies. Contrary to the prevailing belief previously entertained, the fact that merchandise has been in bond for a longer period than three years does not mean that duties are not recoverable. The opinion of our counsel in customs matters is to the effect that so long as the goods remain in Customs' custody, the three year limit does not apply. A test case is now before the Supreme Court of the United States, the decision of which may definitely settle the point, meanwhile applications will be made in all cases.

If the settlement is as in bond, duty unpaid, that should be distinctly stated.

If, unfortunately, adjustment must be made on a "duty paid" basis, the amount of duty is a very important item and the portion of the loss based on duties paid should be clearly and distinctly shown; if duties are included, the amount and dates of payment should be set forth so that there can be no question or doubt as to duties paid being included.

If goods are to be withdrawn from bond, it is necessary for the original importer to transfer his right of withdrawal to The New York Board of Fire Underwriters, and such a transfer under Customs Form 7505, "Duty paid withdrawal for Consumption," will be recognized by the Collector of Customs of District No. 10, whereupon our application under the Casualty Act for relief under the provisions of section 563 of the Tariff Act of 1922 will be accepted by the Collector and transmitted in due course to the Board of General Appraisers for final determination. This course will give us immediate control of the merchandise, with a view to the payment of duties thereon, for the purpose of disposing of the merchandise to the best advantage and to prevent further deterioration.

The above course is an official ruling by the Collector after our conference with Assistant Collector H. C. Stewart, Assistant Attorney General Hoppin

of the Customs Division of the Department of Justice and Special Counsel to the Assistant Attorney General, Mr Higginbotham, all of whom have given their very courteous attention and consideration to the apparent necessities of our business. They have recognized the equities involved and the desirability of every proper effort to preserve remaining values

There are two documents which should be obtained from the insured early in the adjustment as they will be important factors in the proceedings to recover duties paid. They are:

1. Warehouse bonds.
2. The receipts for duties paid.

The warehouse bond is most essential, because, when application is made, the number of the warehouse bond under which the goods were placed in storage is the only means of identification until the matter has been placed upon the calendar by the United States Board of General Appraisers, which sits as a Court, and a specific case number then assigned to the claim. Furthermore, throughout the entire proceeding, the merchandise involved is segregated according to the warehouse bond under which it was entered.

The ordinary schedule heretofore presented in support of a claim has listed the merchandise without any reference to the bond coverage. When, later, after adjustment and disposal of the goods, attempt was made to identify the goods in the general schedule with those involved under a particular General Appraiser's claim, the task has been almost hopeless. It has taken us many weeks to straighten out such cases and often not with satisfactory results

Should the loss be partial, the Examiners will demand a statement showing the amount for which the remaining value in the goods under the bond was disposed of and this cannot be done unless from the beginning the warehouse bond coverage has been the basis of the schedule.

In many cases a settlement is made with the insured on the basis of a total loss and the property taken over to be sold for the benefit of the companies. In such cases, great care should be taken to preserve the identity of the goods. They are now out of the custody of the insured and he cannot be held responsible. There will be occasions when, because bale and/or package marks, etc., have been obliterated, it will be practically impossible to list the goods in accordance with the bond coverage. But where it is humanly possible to do so, the goods should be so listed and the record of sales kept in conformity therewith. When the sale is so conducted we can furnish the Examiners any information they may request.

The receipts for duties paid are important, not only as showing that the duties have been actually paid, but they will furnish data essential in filing the application, for they will show not only the amount of duties paid, but when paid.

It is also essential at or prior to the closing, to secure from the insured an assignment to The New York Board of Fire Underwriters of insured's right to a refund of duties in the form prepared by this office, a copy of which is hereto attached. There will be no difficulty in securing the execution of this document at that time, whereas experience has shown that attempts

to secure it subsequently have involved needless trouble and work, both on the part of adjusters and this office. If the insured is made to understand from the beginning that he has no interest in the possible refunds, it will avoid the handicap of antagonism on his part when later he learns that he is to have no share in the proceeds. It should be impressed upon him that it is his duty to assist in every possible way in effecting a recovery. To a large extent the success of the effort to recover rests in the hands of the insured. His testimony will be almost indispensable. It is important, therefore, that he be a whole-hearted champion. In one of our cases, the insured's lack of interest in the result of the application was emphasized to such an extent that the General Appraiser, before whom the hearing was held, administered a severe rebuke.

In several cases, it has been apparent that it was not clear in the adjuster's mind when the refunded duties belonged to the companies and when the insured had an interest. In any case where duties have been paid and are included in the loss settlement, the full amount awarded by the Board of United States General Appraisers, as a refund of duties paid, belongs to the companies, except in the case of under-insurance, in which event the insured would pro-rate to the extent of his interest. Whether it be a partial or a total loss makes no difference. When a partial loss is adjusted, the assured is recompensed to the extent of his loss in the settlement (subject to any limit of liability) and any recovery being in mitigation of the loss, should revert to the company, subject to pro rata interest, if any, of the insured.

To facilitate matters and assure uniformity we have prepared a form of schedule, a copy of which is attached, which should be used in all cases. We do not believe it necessary to enter into an explanation of this form, as the captions of the various columns indicate the matter called for thereunder. There is one detail not specifically provided for on this form and that is the price obtained for the article in case of sale of the salvage. This information is to be entered in the column headed "Remarks."

There is no question but that the use of such a schedule and the procedure now necessary will call for more detail and hence more attention on the part of the adjuster than the method heretofore in vogue, which was only to reach the actual agreement as to loss and damage with the insured. The matter of salvage recovery is part of every loss adjustment and hence until the recovery of rebatable duties has been accomplished the loss is not fully adjusted. The use of this schedule in every case will shorten the work rather than increase it, and in addition, put all essential information in such form that it will be readily available.

Allen E. Clough  
Secretary.



## THE NEW YORK BOARD OF FIRE UNDERWRITERS

## Committee on Losses and Adjustments

To Members, Companies and Adjusters:

March 20, 1925.

ADJUSTMENT OF CLAIMS FOR LOSS OR DAMAGE TO MERCHANDISE IN BOND  
CIRCULAR No. 2

In the form of a circular, dated October 30th, 1924, we submitted our views and experiences in regard to the adjustment of claims for loss or damage to contents of bonded warehouse under the Tariff Act of 1922. Since then there have been developments that warrant a supplement to the above referred to circular.

As suggested therein, Sec. 563 made a radical change in customs practice. Previously the Board of General Appraisers had no jurisdiction in cases of the character therein described and if there was any relief to be afforded for a loss sustained, it was by applying to the Secretary of the Treasury.

The intent of Congress in enacting Sec. 563 has, in part, been determined by judicial interpretation, but there are still many unanswered questions. You will be interested in the following, some of which we have met and others as to which we are confidently awaiting determination.

In this District, the first cases coming before the Board of General Appraisers arose out of the fire at Tower's Warehouse, August 26, 1923. They were assigned to General Appraiser Adamson, whose decision was that the purpose of a bond being to hold goods in customs custody for a period within the three-year limitation, upon payment of duty this liability ceased, except for a reasonable time for withdrawal. In the Kirsch case, duties had been paid six days before the casualty, which, quoting the opinion, "allowed a very short time and not an unreasonable time for withdrawal." The application for refund was therefore granted. But, in the case of Uberti & Cia, the General Appraiser delivered the following opinion:

"It appears that the importation landed on July 9, 1923, and duty was paid on July 27, 1923, and that the fire occurred on August 26, 1923, in which the merchandise was damaged. There seems to be no contest as to the amount of damage sustained, as reported by the appraiser, but the Government insists that because the duty had been paid, the interest of the Government had been satisfied, and having no longer any interest to protect for itself, nor any obligation to protect the importer, it could not be held liable to lose the duty on the merchandise damaged."

It will be noted that thirty days intervened in this case between the day on which duties were paid and the date of casualty. In the Stegeman case, twenty-three days elapsed and in that case, too, application was denied.

Other decisions followed, which disallowed claims on similar grounds. When the Uberti case, above referred to, was taken under appeal to the United States Court of Customs Appeals, our customs attorneys, Messrs.

Sharretts, Coe & Hillis decided to hold in abeyance all cases in which duties had been paid ten days, or more, prior to the casualty.

Had the interpretation of General Appraiser Adamson been sustained, those companies not using the Duty Exclusion Clause (a), quoted on the second page of our October circular, or a clause of similar import, would frequently find themselves in the position of paying twice as much for goods in one case as in another under circumstances identical, except as to the date on which duties had been paid. Let us suppose the importation of 100 cases of merchandise on the *S. S. Baltic* and placed in Blanks Warehouse, under Bond No. 511, all insured by one company with no duty exclusion clause in the policy. Thirty days thereafter duties, assessed at the rate of 100 per cent, are paid on 50 cases and sixty days thereafter on the remaining 50 cases. Six days after the last duty payment a fire occurs which completely destroys all of the merchandise. The agreed sound value and loss for the 100 cases, \$10,000, of which amount \$5,000 represents duties, is paid the assured. An application is then filed asking that the Government refund \$5,000 under section 563 of the Tariff Act. The total destruction is established to the satisfaction of the General Appraiser and the application for refund is granted for the 50 cases on which duties were paid six days prior to the casualty, but denied as to the other 50 cases where duty had been paid thirty-six days prior to the loss. The result is, then, that the loss on the latter 50 cases remains at \$5,000, while the loss on the other 50 cases, by reason of the refund of duties, is reduced to \$2,500. This is only a suppositious case, but it forcibly illustrates the advantages of the Duty Exclusion Clause.

However, the decision in the *Uberti* case was not sustained. On November 22, 1924, the United States Court of Customs Appeals, Judge Bland delivering the opinion, reversed the judgment of the Board of General Appraisers. As this opinion is of interest and perhaps not available to many, the major portion thereof is quoted below:

"Section 563, we think, was intended by Congress to provide a means of securing relief to importers where goods had been destroyed or damaged either before or after paying duties, and for which misfortune former laws provided no adequate remedy. The section provides that duty may be abated or refunded under five different circumstances if the merchandise upon which the duty accrued was injured or destroyed, in whole or in part:

- (1) While in bonded warehouse.
- (2) In the appraiser's stores undergoing appraisal.
- (3) While in transportation under bond from one port to another.
- (4) While in the custody of the officers of the customs, although not in bond.
- (5) While within the limits of any port of entry and before the same has been landed from the importing vessel or vehicle.

"It is the position of the Government, and while the opinion of the board does not clearly so state, we take it that it was also the opinion of the board, that, while it is clear that the damaged merchandise was in a bonded warehouse, it was not in a bonded warehouse within the meaning of section 563 so as to entitle the importer to the relief the section provided

for. It is contended by the Government that, 'While in bonded warehouse' should be construed to mean the same as if it read, 'While in bonded warehouse under the custody of officers of the customs for duty purposes.' We do not agree with this line of reasoning, nor can we see how such interpretation could possibly be given to the plain words used without supplying omissions or making additions which would, in our judgment, amount to legislation. The section plainly states that, if the injury or destruction occurs to the merchandise while in bonded warehouse, the board is authorized to order a refund. It is urged by the board and the Government that, since the duties had been paid and the withdrawal permit issued, it was of no more concern to the Government; that there were no contractual relations existing between them; that the Government did not stand in the relation of a bailee and was in no sense liable or responsible for damage; and that, the duties having been paid and the withdrawal permit issued, the transaction was closed to such an extent that Congress never intended that the duties should be refunded under the provision 'while in bonded warehouse.'

"Let us inquire into the purpose of the enactment, and, if possible, point out the way for carrying out the wishes of the legislative body. The Government has a lien for duties when goods cross the customs border, but Congress has provided that the goods can be abandoned and the duty abated, or that they may be exported without the payment of duty. The sovereign Government has the right and the power to take the duties accruing under the foregoing circumstances, but, recognizing the injustice in doing so, Congress has provided different remedies for relief. The Tariff Act of 1922 in its preamble provides that it is 'to provide revenue . . . to encourage the industries of the United States.' In other words, it is to raise revenue and afford protection to American industries. We think this section, while forbidding indiscriminate abatement and refunding of duties, requires that duties which accrued upon imported merchandise which was injured or destroyed while under any of the five conditions mentioned, shall be abated or refunded. The goods never entered the commerce of the country, and, therefore, did not tend to discourage the industries of the United States. The failure to refund the duties would not afford any protection under the act, and we think that Congress has in mind cases like the one at bar when they enacted the section.

"We are confirmed in this view more emphatically after having examined Sect. 557 which relates to the drawback for goods exported from warehouse. We quote from the proviso in the section:

'Provided, That the total period of time for which such merchandise may remain in bonded warehouse shall not exceed three years. Merchandise upon which the duties have been paid and which shall have remained continuously in bonded warehouse or otherwise in the custody and under the control of customs officers, may be entered or withdrawn at any time within three years after the date of importation for exportation, or for transportation and exportation, under such regulations as the Secretary of the Treasury shall prescribe, and upon such entry or withdrawal, 99 per cent of the duties thereon shall be refunded.'

"Here it is provided that, where goods are in a bonded warehouse continuously even for a period of three years, and even if the duties have been paid, they may be exported and the duties will be refunded. This we regard as a clear indication that Congress did not want to exact and retain duties upon goods which did not become a part of the commerce of the country. In view of the language used may we not also impute to it the same sense of fairness and justice when applied to goods which were injured or destroyed?

"We do not think it necessary for us to decide the question as to whether they were in the custody of the officers of the customs or not, since it is clear that they were in a bonded warehouse."

Under the foregoing decision, the question of refund or abatement of duties within the period of three years after entry is clearly settled. It means the recovery or saving of thousands of dollars by insurance companies. We have at issue at present, however, as much, if not more, money involved in the question of a refund of duties in cases where the goods have been in customs custody and/or in bonded warehouse, beyond the period of three years stipulated in Sect. 557. This situation was not involved in the *Uberti* case and, hence, not touched upon in the opinion rendered.

Reading the case gave us the impression that the decision of the Court was, to a large extent, influenced by Sect. 557—that section limiting the period of time for which merchandise may remain in bonded warehouse to three years. The question arose whether or not they would, as to a case involving an application for refund, where the merchandise had been in a bonded warehouse for a longer term than the three years specified in that section, be influenced thereby, so that they would decide that the period of time therein limited could not be extended. For that reason this phase was submitted for their opinion, to our customs attorneys, Messrs. Sharetts, Coe & Hills, who have consistently maintained that, so long as goods remain in customs custody, recovery should be had. Their reply follows:

"Section 563 is a new section which did not appear in any of the prior Tariff Acts, and therefore, although we have examined previous decisions involving similar questions, we find that the only expression upon this question is noted in a decision of the Customs Court of Appeals, handed down on November 22, 1924, in the case of *Uberti v. U. S.*

"The question in that case was whether an importer could recover upon a casualty which occurred after the payment of duties and where the merchandise remained in bond within the three-year limitation. In that case the Court, in a very carefully prepared opinion, divided Sect. 563 into five subdivisions, to-wit:

- (1) While in bonded warehouse.
- (2) In the appraiser's stores undergoing appraisal.
- (3) While in transportation under bond from one port to another.
- (4) While in the custody of the officers of the customs, although not in bond
- (5) While within the limits of any port of entry and before the same has been landed from the importing vessel or vehicle.



## Assignment of Claim

WHEREAS, . . . hereinafter known as the Insured, did on the . . . day of . . . , 19 . . . , suffer loss and damage by fire, or as a result thereof to certain goods, wares and merchandise, the property of the Insured and entered or imported in the name of . . . while contained in the Bonded Warehouse located at . . . in the City of . . . and State of . . . and known as . . . and

WHEREAS, the following Insurance Companies, namely

represented by The New York Board of Fire Underwriters their (its) agent, did on, or about, the . . . day of . . . , 19 . . . , pay to the Insured the sum of . . . Dollars, the receipt whereof is hereby acknowledged, in full of all claims and demands for loss or damage by reason of such fire to goods wares and merchandise (a list thereof, under proper Warehouse Bond numbers, showing case number, vessel and date of entry of all merchandise covered by each Warehouse Bond, designated hereon or in any schedule attached hereto, being made part hereof) and

WHEREAS, the sum so paid did include certain import duties paid and/or due to the United States Government by the Insured prior and/or subsequent to said fire,

THEREFORE, KNOW ALL MEN BY THESE PRESENTS, that in consideration of such payments any and above recited, by the aforementioned Insurance Companies, the Insured (assignor) DOES HEREBY ASSIGN, sell transfer and deliver over unto (assignee) The New York Board of Fire Underwriters (Incorporated under the laws of the State of New York by an Act dated May 9, 1867), its Successors and Assigns, all right, title and interest in and to any refund and/or abatement of duty which may be, or has been, made by the United States Government for injury, deterioration, loss or damage to any or all of the goods, wares and merchandise herein described sustained by reason of said fire, together with any and all claims, demands and cause or causes of action which the said assignor has had, or now has, or may have, against any and all person, or persons firm or firms, corporation, or corporations arising from, or connected with, any and all loss or damage of the assignor caused by or as a result of said fire,

AND the said assignor hereby constitutes and appoints the said assignee, or its successors and assigns, the true and lawful attorney, or attorneys, of the said assignor irrevocable, with full power of substitution and revocation, in the name of said assignor, or otherwise to ask, demand, sue for, collect, receive, compound and give acquittances for the said refund and/or abatement of duty and/or the said claim or claims, or any part thereof; and

Assignment of Claim (Front).

FURTHER, the Insured agrees to assist in every needful way in the recovery of refund and/or abatement of aforesaid import duties, and/or said claims, demands, cause or causes of action.

IN WITNESS WHEREOF the undersigned has executed these presents this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_

Witness \_\_\_\_\_ (Signature) \_\_\_\_\_

(acknowledgment when assignor is an individual)

STATE OF NEW YORK, }  
City of New York, } ss.  
County of New York.

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ before me personally appeared \_\_\_\_\_, to me personally known and known to me to be the individual described in and who executed the foregoing instrument, and acknowledged that he executed the same for the uses and purposes therein mentioned.

(acknowledgment when assignor is a corporation)

STATE OF NEW YORK, }  
City of New York, } ss.  
County of New York

On the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ before me personally came \_\_\_\_\_, to me known, who being by me duly sworn did depose and say that he resides in \_\_\_\_\_, that he is the \_\_\_\_\_ of the \_\_\_\_\_, that he knows the seal of said corporation, that the seal affixed to said instrument is such corporate seal, that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto by like order

(acknowledgment when assignor is a co-partnership)

STATE OF NEW YORK, }  
City of New York, } ss.  
County of New York.

On this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_ before me personally came \_\_\_\_\_, a member of the firm of \_\_\_\_\_, described in the foregoing instrument, to me known and known to me to be a member of the said firm and the person who executed the said agreement, and acknowledged to me that he executed the same on behalf of said firm for the uses and purposes therein mentioned.

Assignment of Claim (Reverse).

## APPENDIX T

### LEASEHOLD INTEREST FORMS

#### Uniform Standard

This policy for \$ . . . covers its pro-rata proportion of the following described insurance:

\$ . . . . . on the interest of the insured as lessee of premises situate  
... ..  
(Here give street number, or lot or block number or township, section and range.)

... ..  
under lease dated . . . . 19.. for the term of.....years  
and expiring . . . . . 19...

The term "interest of the insured as lessee" is hereby defined as the excess of the rental value of such premises over the actual rental payable (including any maintenance or operating charges paid by the insured) during the unexpired term of the insured's lease, whether the premises be occupied in whole or in part by the insured, or whether they be sub-let to other tenants, and is estimated at the date of this policy at \$. . . . .  
\* per month.

The term "net leasehold interest" as used herein is hereby defined as that sum which placed at 4 per cent interest compounded annually will be equivalent to the interest of the insured as lessee for each separate month of the lease unexpired.

It is a condition of this insurance that the following is a full and true copy of all of the conditions of said lease relating to damage to the building by fire, and that no change shall be made in said conditions unless consented to by this Company in writing endorsed on this policy:

#### (Here Attach Copy of Fire Clause)

It is a condition of this insurance that in the event the lease contains no conditions relating to damage to the premises by fire, the statutory requirements of the State in which the property is situated shall govern.

It is a condition of this insurance that the amount of this policy shall be automatically reduced from month to month as set forth opposite each

\*The amounts named in these two blanks should be identical and represent in each case the "interest of the insured as lessee" without discount.



respective month in the net leasehold interest table which accompanies this policy form, and a pro rata proportion for less than one month.

In the event of cancellation of the lease by the lessor after loss or damage by fire in accordance with the conditions of the lease herein before quoted (or by statutory requirements in the absence of a Fire Clause) this Company shall be liable to the insured for the actual loss sustained not exceeding whatever amount of insurance remains in force at the date of the fire to be computed as follows: The interest of the insured as lessee as determined by adjustment shall be paid for the first three months succeeding the fire, and the net leasehold interest shall be paid for the remaining months of the unexpired lease.

It is a condition of this insurance that if the premises be rendered wholly untenable by fire and the lease not cancelled, this Company shall be liable for its pro-rata proportion of the actual loss sustained at a rate of not exceeding \$ . . . . . (\*) per month, and pro-rata proportion thereof for less than one month, and a pro-rata proportion thereof for partial untenability, for the length of time, not limited by expiration of this policy, as shall be required with the exercise of reasonable diligence and despatch to render the premises again tenable, but not extending beyond the expiration of the lease.

It is a condition of this insurance that this Company shall not be liable under this policy for a greater proportion of any loss than the amount of insurance remaining in force at the time of the loss as determined by the foregoing conditions shall bear to all insurance, whether valid or not and whether collectible or not, covering in any manner the loss insured against by this policy.

In the event of cancellation of said lease by the lessor, in accordance with its terms, or in accordance with the statutes applicable, should the lessee remain in possession as tenant at will under a new lease or otherwise, this Company shall be liable for the actual loss sustained by the insured to his interest, which loss shall not exceed the limit of liability set forth herein.

In consideration of the special rate and/or conditions under which this insurance is written, this policy shall not be cancelled by the insured for the purpose of rewriting same for a term extending beyond the date of expiration named in this policy, nor for the purpose of rewriting same for a smaller amount at any time during the life of this policy, excepting where there has been a corresponding reduction in the monthly interest of the insured as lessee in which event the earned premium on the average amount of liability cancelled shall be computed in the same manner in which the original premium is computed and at the customary short rate.

If this entire policy is cancelled, the earned premium shall be computed upon the average amount at risk for the expired term in the same manner in which the original premium is calculated.

\*The amounts named in these two blanks should be identical and represent in each case the "interest of the insured as lessee" without discount.

It is a condition of this insurance that this Company shall not be liable for any loss to leasehold interest by reason of any act or omission of the insured, or by the insured exercising an option to cancel the lease, or by the enforcement of any ordinance or law regulating or prohibiting construction or repair of buildings, or by the suspension, lapse or cancellation of any license, or for any other remote loss.

It is a condition of this insurance that in case the insured and this Company are unable to agree as to the amount of loss, the same shall be determined by appraisal in the manner provided by the policy to which this form is attached, the provision of which policy shall govern in all matters pertaining to this insurance, except as herein otherwise provided.

#### A Form Used in New York City

On the Insured's interest as lessee of premises situated at. . . . .  
and held under lease commencing. . . . .  
and expiring . . . . .

It is warranted by the Insured that the following is a correct copy of the Fire Clause in said Lease, and that no change shall be made in said Fire Clause without the written consent of this Company.

(Insert here Copy of Fire Clause in Lease)

In consideration of the premium at which this insurance is written the amount of the policy shall be reduced by the sum of \$.. . . . per month until expiration.

In case the premises described herein be so damaged or destroyed by fire or lightning, occurring during the term of this policy, as to result in cancellation of Lease in accordance with the Fire Clause above set out, this Company shall be liable to the Insured for the Actual Loss Sustained to the Leasehold Interest insured, not exceeding the amount of this policy remaining in force on the date of the fire as determined by the special terms and conditions of this contract.

In case the premises described herein be so damaged or destroyed by fire or lightning, occurring during the term of this policy, as to render same wholly untenable but the Lease be not canceled, this Company shall be liable to the Insured for the actual loss sustained to the Leasehold Interest insured, at the rate of not exceeding \$. . . . . per month or if partially untenable for a pro-rata proportion thereof, for not exceeding such length of time (not limited by the date of expiration of this policy) as shall be required, with the exercise of due diligence and dispatch to render the damaged or destroyed portions of the described premises fit for occupancy.

In no event, however, shall this Company be liable for an amount greater than the amount for which this policy is written, and it is a special condition of this insurance that in the event of loss there shall be a deduction at the rate of 4 per cent annual interest from all payments made more than sixty (60) days in advance of the dates upon which the Insured would have

realized such amounts in the ordinary course of business had the lease not been canceled.

In case the Insured and this Company are unable to agree on any question affecting the amount of loss under this policy, the same shall be determined by appraisers in the manner provided by the policy to which this form is attached, the provisions of which policy shall govern in all matters pertaining to this insurance.

In consideration of the reduced rate of premium for which this policy is issued, it is agreed that in the event of cancellation thereof the amount of return premium due the Insured shall be the difference between the initial premium charged the Insured and the premium earned by this Company computed on the average amount of this Company's liability during the time this policy shall have been in force.

Attached to and forming part of Policy No..... of the . .  
..... of . . .

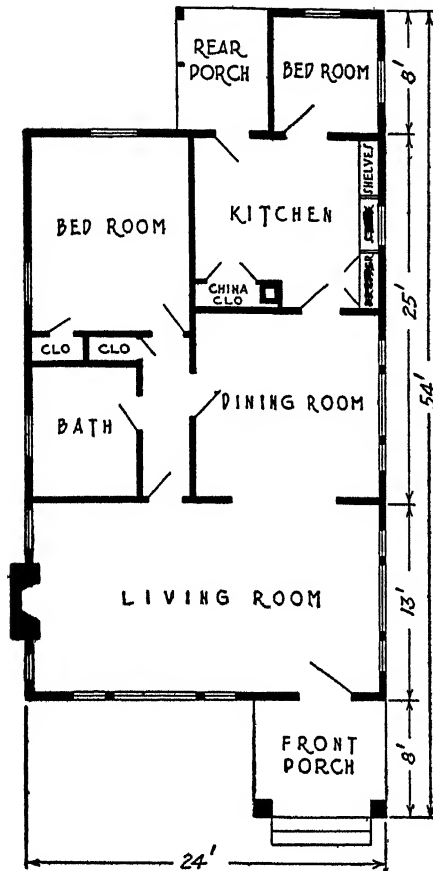
# APPENDIX U

## BUILDING ESTIMATES



### BUNGALOW, ALABAMA

4500 brick in chimney, flue, and piers, in place @ 35 00	157 50
2 1½ × 1½ × 36 inch arch bars @ 1 00.	2.00
30 linear feet 8 × 8 flue lining, TC @ 0 30	9.00
1 6 inch flue thimble, TC...	50
1 mantle, grate, and hearth....	75.00
If for 4 inches skirt wall 24 inches high, add 1,000 brick @ 35 00.	35 00
Furnace or steam heat (get estimate, + say furnace)	225 00
Electric wiring and fixtures (moderate).	75.00
Plumbing and connections (5 pieces)	350 00
Framing, 188 linear feet 4 × 8 sills	500 feet
168 linear feet 2 × 4 sill cleats..	112 feet
24 pieces 2 × 8 × 12 joists.	384 feet
7 pieces 2 × 8 × 16 joists porch and	
B.R.,	149 feet cut
12 squares sub-flooring	1500 feet
256 pieces 2 × 4 × 9 studs and	
braces	1536 feet
256 linear feet 4 × 4 plates	341 feet
12 squares storm siding	1500 feet
74 pieces 2 × 6 × 12 ceiling joists	868 feet
7 pieces 2 × 6 × 8 ceiling joists,	
B R.	56 feet
7 feet 2 × 6 × 8 ceiling joists	
porch	56 feet
46 pieces 2 × 6 × 16 rafters	736 feet
4 pieces 2 × 6 × 10 rafters,	
porch	40 feet
4 pieces 2 × 6 × 10 rafters, B R.	40 feet
	7818 feet @ 6 00 469 08



1 square roof complete on rear porch...	16 50
13 squares decking porch and B.R., 1725 feet @ 6.00.....	103.50
16 squares roofing, composition shingle on wood, @ 9 00 ..	144 00
4 pieces 2 × 8 × 16 D4S barge boards for gable, 85 feet @ 10.00	8.50
17 squares siding 1 × 8, 2,125 feet #1, @ 9.00.....	191 25
170 linear foot rafter ends and cornice decking, @ 0 30..	51 00
3 triple windows and frames complete, see elevation, @ 37 50	112 50
8 single windows and frames complete, see elevation, @ 12 00	96 00
1 front door and frame and hardwood complete, see elevation,	30 00
9 inside door frame hardwood complete @ 10 00 ..	90 00
Grounds, $\frac{7}{8} \times 1\frac{1}{4}$ inches, 1,500 linear feet, @ 0 01½..	22 50

496 yards plaster on laths @ 1 00 . . . . .	496 00
28 yards keen cement plaster in bath room @ 2 00.....	56 00
2 louvre ventilators in gables, @ 7.50 . . . . .	15 00
2 brackets, front porch, see elevation, @ 5.00 . . . . .	10.00
1 column and plates rear porch . . . . .	7 50
376 linear-feet base and shoe mould, @ 0.12 . . . . .	44 92
1 china closet, see details, cst . . . . .	30 00
125 linear feet 1 × 12 shelving, pantry and kitchen @ 0 10 . .	12 50
11 squares hardwood floor, 1,375 feet, @ 0.20.. . . .	265 00
1½ squares heart pine floor, front and rear porches, 190 feet @ 12 50 . . . . .	23 75
Front and rear steps, front and rear porches, estimated. . . .	15 00
Sand and finish 11 squares hardwood floor @ 0.08,.. . . .	88 00
25 squares outside paint, @ 3 50..... . . . .	87 50
Inside paint, trim and base boards.. . . .	75 00
Paper hanging and decorations..... . . . .	100 00
Picture molds. . . . .	15.00
1¾ squares decking porch and B.R., 200 feet @ 6 00 . . . . .	12 00
NOTE.—The foregoing prices include all nails, hardware and labor.	
Total estimated cost—all labor and material... . . . .	\$3,617 00
Add for contractors profit, 10 per cent..... . . . .	361.70
Total estimated cost to rebuild. . . . .	\$3,977 70

### FRAME BUILDING, CHICAGO

#### 1 Story frame 16 × 18 and 8 × 18 Porch

##### Main Building, 16 × 18:

68 lineal feet, stud partition..... . . . .	68.00
68 × 12 siding, 1,020 feet. . . . .	122 40
68 lineal feet, bottom plate..... . . . .	6.80
36 lineal feet, top plate . . . . .	3 60
2 gable ends, complete . . . . .	60 00
27, 2 × 4 × 12 roof rafters..... . . . .	27 00
24 × 18, roof boards, 540 feet . . . . .	54.00
24 × 18 roofing. . . . .	35 56
14, 2 × 4 × 16 ceiling rafters, 147 feet..... . . . .	14.70
14, 2 × 10 × 16 floor joists, 364 feet . . . . .	36.40
16 × 18 subfloor, 360 feet..... . . . .	36 00
16 × 18 maple floor, 384 feet . . . . .	69.12
68 lineal feet, base..... . . . .	20 40
3 doors, complete..... . . . .	75 00
3 windows, complete and glass . . . . .	90 00
100 yards lath and plaster..... . . . .	125 00
Tint, walls and ceiling..... . . . .	18 00
7 sides..... . . . .	14.00

## Porch 8 × 18 × 9:

30 lineal feet, stud partition . . . . .	30 00
30 × 12 siding, 450 feet . . . . .	54 00
14, 2 × 4 × 8 roof rafters, 75 feet . . . . .	7 50
8 × 18 roof boards, 180 feet . . . . .	18.00
8 × 18 roofing . . . . .	11 52
1 door, complete . . . . .	25 00
4 windows complete and glass . . . . .	120 00
14, 2 × 8 × 8 floor joists, 145 feet . . . . .	17 40
8 × 18 floor, 180 feet . . . . .	18.00
8 × 18 maple floor, 192 feet . . . . .	38 40
52 feet, bottom plate . . . . .	5 20
52 feet, top plate . . . . .	5 20
Lath and plaster, 50 yards . . . . .	62 50
Paint, walls and ceiling. . . . .	15 00
Paint, woodwork . . . . .	10 00

## Exterior:

Front rear steps . . . . .	15 00
Paint . . . . .	50 00
Gutters and downspout. . . . .	30 00
Chimney... . . . .	35 00
Wrecking permit and debris . . . . .	35 00
Total... . . . .	<u>\$1,478 70</u>

This building appears to have been in very bad condition before the fire and should be subject to very heavy depreciation.

## BRICK COLLEGE BUILDING, GEORGIA

Remove burnt materials: timber, tin, cement.... .	\$350 00
Rough lumber and sheathing, 22,048 feet . . . . .	1,653 60
Flooring and ceiling, 3,674 feet @ 105 00... . . . .	385 77
Frames, sash, doors, and shelving. . . . .	325 00
Tin shingles, 77 squares @ 16 00 . . . . .	1,232 00
Valley tin, 200 feet, @ 0 40 . . . . .	80 00
Tin Roof, 16 squares @ 12.00.. . . .	192 00
Gutters, 300 feet @ 0.75 . . . . .	225 00
C. I. cresting, remove and replace . . . . .	75 00
C. I. cresting and finial... . . . .	50 00
G. I. cornice, 140 feet @ 1 00 . . . . .	140 00
G. I. Ornaments—ridge and hips . . . . .	82 00
Nails, 7 kegs, @ 4 50. . . . .	31.50
Hardware . . . . .	23 00
Plastering, 1,492 yards @ 100 00. . . . .	1,492 00
Painting . . . . .	2,835 70
Electric wiring... . . . .	370 00
Patch flooring and damage . . . . .	155 00

Glass .....	12 00
Clean premises ..	50 00
Ease sash and doors ..	35.00
Thresholds ..	10 00
Drayage .....	150 00
Workman's compensation, \$3,800.00 @ 0 025 ..	95 00
Scaffolding ..	125 00
Point up and clean chimneys and walls ..	95 00
Plaster on metal laths, 189 yards @ \$110 00 ..	207 90
Kennels, stucco on metal laths, wire, and doors ..	505 72
Whitewash, brick walls, attic ..	50 00
Stair, repairs, nosings ..	25 00
Plumbing ..	48 00
Superintendent, 2 months, @ \$300.00 ..	600 00
	<u>\$11,706 19</u>
Commission, 10 % ..	1,170 51
	<u>\$12,876 70</u>
Depreciation, 7½ per cent. ....	965 67
Total ..	<u>\$11,912.03</u>

## MASSACHUSETTS

## DETAIL OF LOSS

412 squares, fourth floor construction, and partition. ....	360
Stair partition, including sheeting and plaster ..	78
Electric and gas ..	50
50 yards ceiling plaster ..	100
Paint hall ..	107
10 squares maple floor ..	180
Broken glass and sash ..	39
2 doors ..	40
3 ante-rooms, paint and floors ..	90
Hall plaster ..	25
Paint, stair hall ..	100
1 door ..	20
Carpenter work on stairs ..	20
Wall sheeting ..	20
Paint, fourth floor ..	100
Floor damage, first ..	100
Water damage, second ..	20
Ceiling damage ..	25
Office and halls, second floor and three rooms ..	220
2 broken doors ..	50
Additional floor damage ..	80
Total ..	<u>\$1,824</u>



## SOUTH DAKOTA

## Store Building:

25 × 70 × 12, built in 1910.

Addition 25 × 10 × 12, built in 1916.

Addition 16 × 26 × 14, IC, built in 1918.

Concrete Foundation and Basement.

Cost to replace as per detailed estimate of adjuster, as follows:

	Value	Loss
260 L' 4 × 6 sills, 520', @ \$56 00... . \$	29 12	
84 L' 4 × 4 sills, 112', @ 56 00 .....	6 27	
80 2 × 10 × 14 joists, 1,867', @ 50.00	93 35	
16 2 × 8 × 10 joists, 213', @ 48.00	10 22	
80 2 × 6 × 14 joists, 1,120', @ 48.00	53 76	
16 2 × 8 × 16 joists, 341', @ 50.00	17 55	
16 2 × 4 × 16 joists, 171', @ 50.00	8 55	
510 L' 2 × 4 bridging 340', @ 48.00	16 32	
238 2 × 4 × 12 studding and plaster		
1904', @ 48.00 .....	91 39	
50 2 × 4 × 14 studding and plaster		
467', @ 48 00.....	22.42	
72 2 × 6 × 16 rafters and ties 1,152'		
@ 50.00.....	57 60	
22 2 × 4 × 12 rafters and ties 176'		
@ 48 00 .....	8 45	
26 2 × 4 × 10 rafters and ties 173'		
@ 48.00 .....	8 30	
6 M Lath @ 11.00. ....	66 00	
9,460' shiplap, @ 50.00 ..	473 00	
3030' T. & G. fir flooring, @ 90 00. ..	272 70	
3,520' siding, @ 65.00 .....	228 80	
4½ squares metal siding @ 8.00 ..	36 00	
30 M 1 clear shingles, @ 6.00....	180 00	
16 rolls building paper, @ 1.75.....	28 00	
6 26 × 30 inches 2 light sash, @ 4.00	24 00	
1 cottage sash, @ 8.30 .....	8 30	
6 window frames, @ 5.10.....	30.60	
1 cottage sash frame.....	6 10	
2 doors 2'8" × 6'8" × 1¾" @ 7.00..	14 00	
2 door frames, @ 6.00 .....	12 00	
2 sides door, trim @ 2.00.....	4 00	
6 Sides Window Trim @ 2.80....	16.80	
430' finish @ 120.00.....	51 60	
210 square feet store front, @ 0 40 ..	84 00	
2 72 × 80 inches plate glass, @ 45 40	90.80	
1 56 × 84 inches plate glass @ 36 60	36 60	
2 36 × 72 inches plate glass @ 19 12	38 24	
Hardware.....	98 00	

400 yards plaster @ 0 60 . . . . .	240 00	
1,640' BM shelving material, @ 80.00 . . . . .	131 20	
Drayage . . . . .	65 00	
Carpenter labor. . . . .	1,035 00	
1,128 cubic feet concrete, @ 0.50 . . . . .	564 00	
25 feet brick chimney @ 3.00 . . . . .	75 00	
Electric wiring and fixtures.. . . .	73 00	
310 yards outside paint, @ 0 40 . . . . .	124 00	
80 yards interior paint @ 0.30 . . . . .	24 00	
400 yards Muresco wall finish, @ 0 20 . . . . .	80 00	
Cost to rebuild. . . . .	\$4,634 04	
Less depreciation 30 per cent . . . . .	1,390 20	
Sound value . . . . .	\$3,243 84	\$3,243 84
Less concrete salvage value.. . . .	424 79	
Loss. . . . .		\$2,819 05

## APPENDIX V

### STATEMENTS OF LOSS

John Doe                      Houston, Texas  
Fire July 3, 1922              4:00 a.m.

Three-story Brick Building:

Estimated value, by adjusters. . . . . \$40,000.00

Loss and Damage:

Cost to repair, as per estimate of \_\_\_\_\_,  
architect for assured, copy enclosed herewith. . . \$16,320.00

Cost to repair, as per estimate of \_\_\_\_\_,  
contractor for companies—copy herewith. . . \$13,400 00

Agreed Loss and Damage and Companies pay . . . . . \$13,400.00

Insurance, \$21,000.00

No Clauses affect result

Adjusters:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### APPORTIONMENT

Number	Company	Insures	Pays
1	Connecticut Fire	\$ 2,000 00	\$ 1,276 19
3	Connecticut Fire	1,500 00	957 14
6	Firemen's Underwriters	5,000 00	3,190 48
9	National Liberty	2,000 00	1,276 19
8	Providence Washington	4,000 00	2,552 38
7	Phoenix of Hartford	2,000 00	1,276 19
4	Westchester	4,500 00	2,871 43
		\$21,000 00	\$13,400 00

Adjustment Co.  
By

John Doe

Bryan, Texas

Fire, March 12, 1925, 11:30 p.m.

Policies cover Household Furniture in Private Dwelling:

Assured's inventory at cost after fire. . . . .	\$26,673 85
Less 25 per cent depreciation . . . . .	6,668 46
Sound Value . . . . .	<u>20,005 39</u>

Loss and Damage:

Total Loss items . . . . .	12,459 75	
Less 25 per cent depreciation . . . . .	<u>3,114.93</u>	
Sound Value and Loss . . . . .	<u>9,344 82</u>	9,344 82
Damaged items . . . . .	14,214.10	
Less 25 per cent depreciation . . . . .	<u>3,553 52</u>	
Sound Value . . . . .	10,660.58	
Estimated value after fire $33\frac{1}{3}$ per cent. . . . .	<u>3,553 52</u>	
Damage . . . . .	<u>7,107.06</u>	7,107.06
Loss and Damage . . . . .		<u>16,451 88</u>
Insurance \$10,500 00; Companies pay.....		<u>10,500 00</u>

All details on file with adjusters.

## APPORTIONMENT

Policy Number	Company	Insures	Pays
	American Underwriters	\$ 2,000.00	\$ 2,000 00
	American Underwriters	1,750.00	1,750 00
	Connecticut	2,750.00	2,750 00
	Franklin	1,500.00	1,500 00
	Michigan F & M	2,500.00	2,500.00
		<u>\$10,500.00</u>	<u>\$10,500 00</u>

Adjuster

STATEMENT OF LOSS A/C . . . . . CORPORATION  
 AND/OR . . , ON BUILDINGS AND CONTENTS (BLANKET)  
 OF MILL "A" . . . . . BY FIRE OF APRIL 13, 1927

	Appraised Sound Value, 1919	Per Cent Depre- ciation	Agreed Sound Value	Agreed Loss
<b>Buildings and Structures:</b>				
Machine room . . . . .	\$36,302 00	50	\$18,151 00	\$ 250 00
Boiler house..... .	5,667 00	50	2,833 50	
Stack .....	480 00	50	240 00	
Coal pocket and trestle	700 00	50	350 00	
Beater .....	10,109 00	50	5,054 50	1,516 50
Wood house and repair shop	4,715 00	50	2,357 50	1,857 50
Wet machine and grinder .	14,994 00	50	7,497 00	6,497 00
Storage building ..	3,119 00	50	1,559 50	1,039 67
Rack house. . . .	1,064 00	50	532 00	532.00
Pulp storehouse . . .	8,197 00	50	4,098 50	
Sprinkler tank and trestle .	4,320 00	50	2,160 00	
Total Buildings . . .	\$89,667 00		\$44,833 50	\$11,692 67
<b>Contents, Included Appraisal, 1919:</b>				
Machine room. . . .	\$ 9,846 00	50	\$ 4,923 00	\$
Boiler house . . . . .	6,563 00	50	3,281 50	
Beater building . . . . .	19,473 00	50	9,736 50	1,168.00
Wood house and machine shop .....	963 00	50	481 50	371.50
Wet machine and grinder building . . . . .	56,517 00			
Less items not covered . \$20,169 00				
Less grinders 11,256 00				
Total deduc- tions. . . \$31,425 00				
Appraised S.V. 1919 Involved \$25,092 00		50	12,546 00	10,441 62
Grinders, as agreed, stor- age building . . . . .	595 00	50	297 50	267 50
Total Contents	\$93,957 00		\$35,766 00	\$16,748 62

	Appraised Sound Value 1919	Per Cent Depre- ciation	Agreed Sound Value	Agreed Loss
Contents, Miscellaneous, Per Inventory after Fire at Actual Value Except as Noted:				
Machine room . . . . .	\$ 3,898 17	\$407 25	\$ 3,490 92	\$
Boiler house. . . . .	18 00		18 00	
Beater building . . . . .	1,113 17		1,113 17	
Wood house and repair shop	377 00		377 00	254.00
Wet machine and grinder building.. . . .	2,515 00		2,515 00	1,800 00
Storage building....	794 00		794.00	650 00
Spare parts, various buildings . . . . .	500.00		500.00	
Total Contents	\$9,215 34	\$407 25	\$ 8,808 09	\$ 2,704 00
Ground Wood Lap at Market Price Day of Fire:				
Pulp Storhouse, No. 1... .	\$13,650 00		\$13,650.00	
Storage Building . . . .	105 00		105.00	
Totals Ground Wood Lap	\$13,755 00		\$13,755.00	

## RECAPITULATION

	Appraised or Actual Value	Agreed	
		Sound Value	Loss
Buildings . . . . .	\$ 89,667.00	\$44,833.50	\$11,692 67
Contents included appraisal, 1919...	93,957.00	35,766 00	16,748 62
Contents miscellaneous. ....	9,215.34	8,808 09	2,704.00
Ground wood lap.....	13,755 00	13,755 00	
Totals	\$206,594.34	\$103,162.59	\$31,145 29

Total Insurance of \$109,500.00 Pays \$31,145.29

Application of 90 per cent Average Clause does not reduce payment.

NOTE.—Appraised Sound Value of 1919 represents cost replacement 1919 less an average of 30 per cent depreciation. Sound Value of Grinders as shown represents sales value day of fire, due to same being obsolete

Detailed papers on file with——Co.

## APPORTIONMENT

Policy Number	Expires	Company	Insures	Pays
1	7/15/29	American Central Insurance Co	\$ 4,500 00	\$ 1,279 94
2	7/27/29	American Central Insurance Co.	4,000 00	1,137 73
3	2/15/29	Bankers & Shippers Insurance Co.	15,000 00	4,266 48
4	5/ 5/27	Commercial Union Assur. Co Ltd.	5,000 00	1,422 16
5	1/12/28	Excess Insurance Co. Ltd	5,000.00	1,422 16
6	7/15/29	Globe & Rutgers Fire Ins. Co	4,000 00	1,137 73
7	2/15/29	Home Insurance Co.	25,000 00	7,110 79
8	1/12/28	Lloyd's London	33,250 00	9,457 36
9	5/ 5/27	Reliance Insurance Co., Phila	13,750 00	3,910 94
Totals			\$109,500 00	\$31,145 29

John Doe Company

Beaumont, Texas

Capital, \$235,000 00

..... President  
 ..... Secy-Treasurer  
 ..... Vice-President

Fire: May 7, 1924:

5.00 a m.

Estimated value entire stock... \$140,000 00

Loss and Damage:

Inventory of merchandise in burned location,  
 at net cost, as shown by records, verified from

salvage by adjusters ..... \$ 50,333 21

Less items not covered..... \$33 50

Less errors in extensions..... 54 24 87 74

Corrected inventory..... \$ 50,245 47

Total loss merchandise. .... 7,542.61 \$ 7,542.61

Damaged merchandise . . . . . \$ 42,702 86

Less agreed value of salvage ... \$ 19,786 21 \$22,916.65

Damaged merchandise in other portions of building:

Fruit and produce..... 4,473 45

Agreed damage, 33 $\frac{1}{3}$  per cent .. . 1,491 15

Paper and bags..... 5,161 41

Agreed damage, 25 per cent.. . 1,290.35

Labor salvaging . . . . . 549.40

Whole loss and damage and companies pay. . . . . \$33,790.16

Insurance \$140,000 00

No Clauses affect result

## APPORTIONMENT

Number	Company	Insures	Pays
2	Aetna Insurance Company	\$ 7,500 00	\$ 1,810.19
8	British Underwriters	5,000 00	1,206 79
7	Continental Insurance Company	20,000.00	4,827 17
6	Federal Insurance Company	10,000 00	2,413 58
5	Fire Association	20,000 00	4,827 17
4	Hartford Fire Insurance Company	12,500 00	3,016 98
7	Home Insurance Company	12,500.00	3,016 98
3	Netherlands Insurance Company	10,000 00	2,413 58
9	National Union	12,500 00	3,016 98
6	Phoenix of Hartford	15,000.00	3,620 37
5	Security Insurance Company	5,000.00	1,206 79
4	United States Undrs Agency	10,000 00	2,413 58
		\$140,000 00	\$33,790 16

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 Adjuster



## APPENDIX W

### MEMORANDUM COVERING FIRE IN PREMISES OF CLOTHING CONTRACTOR

A loss occurring during the month of October, 1923, attracted considerable attention, and as the facts which were developed during the investigation and adjustment of the several claims demonstrated very clearly that serious thefts had occurred and that the fire was probably brought about for the purpose of concealing these thefts a synopsis of the case will be of interest.

**Contractor's Premises.**—The contractor occupied the rear of the second floor of the building, which was a six-story structure equipped with automatic sprinklers. There was another tenant occupying the remaining portion of the same floor. The contractor employed a solicitor and the manufacturers who had merchandise on the premises at the time of the fire stated that they were given extraordinary inducements to have their goods made up by the contractor.

**Fire.**—The alarm was received at 1:57 a m. The tenant who occupied the other section of the floor stated that he was working until 9:45 p m. and that during the evening he heard voices on the premises of the contractor and recognized one of the voices as being that of the contractor.

When the fire department arrived they found several butter tubs in the premises which were filled with kerosene oil. Twenty sprinkler heads operated, but their action was so peculiar that the adjuster believes the sprinkler system had been tampered with before the fire. The fire department arrived so promptly that no merchandise was burned out of sight. Following the fire the contractor was arrested and charged with arson.

**Claims and Adjustments.**—Each manufacturer having goods on the premises was required to inventory his own goods and have his inventory checked by the Underwriters Salvage Company. All the manufacturers admitted, after they had examined the premises, that no goods had been burned out of sight. As a result of inventorying and checking a shortage of almost 50 per cent of property which should have been on the premises at the time of the fire was discovered, as shown by the following figures

Manufacturer Number	Sound value per assured's records	Sound value inventoried after fire	Shortage
1	\$ 561 20	\$ 198.82	\$ 362 38
2	1,289.17	718 37	570 80
3	7,800 41	5,372 42	2,427 99
4	5,936 79	3,666 14	2,270 65
5	5,068 25	2,391.13	2,677 12
6	4,667.53	2,356 89	2,310 64
7	5,252 40	1,233 82	4,018 58
8	1,775 86	758.39	1,017.47
9	33 50	33 50	nil
10	6,831 78	4,174 38	2,657 40
	\$39,216.89	\$20,903.86	\$18,313.03

**Conclusion.**—Had there been any serious destruction of goods before the arrival of the fire department the companies would undoubtedly have been forced to pay for at least a large part of the shortage, and in this fashion the person who removed the property of the manufacturers would have unloaded on the insurance companies the burden of his theft.

The case is a clear illustration of the theft hazard in the garment-working trade. In addition to the moral hazard of the manufacturer the company is faced with the moral hazard of the contractor, and if both manufacturer and contractor are honest there is still the hazard of the thieving employee who may strip a loft of valuable merchandise and then start a fire to conceal the theft.

## APPENDIX X

### SURVIVORSHIP

HAROLD H. BOWMAN

In relation to property, survivorship signifies the condition existing when a person becomes entitled to the ownership of property by reason of his having survived another person who, during the latter's life, had an interest in such property. In the case of real estate, this right of survivorship is, in nearly every case, the result of the existence of a tenancy by the entirety or of a joint tenancy; in the case of personal property, it nearly always results from the provisions of a will or a trust deed. The right of survivorship also applies to the ownership of homesteads created by statutory enactment and varies as to its conditions and extent with the provisions of such statutes.

### TENANCY BY THE ENTIRETY

The widely varying provisions of statutes in the different states make it impossible to give a really comprehensive and accurate definition of a tenancy by the entirety. In general, however, it may be said that a tenancy by the entirety is an estate held by husband and wife by virtue of title acquired by them jointly after marriage. A deed to husband and wife, even without describing them as such and without purporting to convey any joint interest, is, in New York and in most other jurisdictions, sufficient to create this estate. It is held in most states that the enactment of statutes giving married women the ownership and control of their separate property has not abolished this kind of estate. Of course, however, the express provisions of such a statute may prevent an estate by the entirety from coming into existence or may modify the respective rights of husband and wife as owners of such estate.

During the existence of an estate by the entirety, each spouse is, in most jurisdictions, considered as the owner of the whole estate and not of any share or divisible part thereof. As a general rule, neither spouse can, by deed, mortgage or other form of transfer or encumbrance, defeat the right of the other spouse to take the whole estate by survivorship. By virtue of this right of survivorship, where real property is held as an estate by the entirety and one spouse dies, the surviving spouse retains the whole estate as sole owner thereof. On the death of the survivor, without leaving a will devising the estate, such estate passes to the heirs of such survivor to the exclusion of the heirs of the first deceased spouse or of the heirs of a former wife.

By reason of the fact that each spouse has title to the whole estate, each such spouse has an insurable interest in an estate held by the entirety.

In a few jurisdictions, it is held that personal property may be held by the entirety. In such jurisdictions, estates by the entirety in personal property would be subject to the same rules as estate by the entirety in real property.

### JOINT TENANCY

As in the case of tenancy by the entirety, the laws of the various states differ widely as to the nature of a joint tenancy. Generally speaking, however, a joint tenancy exists where a single estate in real or personal property is owned by two or more persons under one instrument or under a single act of the parties. Such tenancy is not favored by the courts and legislatures and has been abolished in many jurisdictions. In some other jurisdictions, such as New York, it exists, but is not favored; so that, when property is conveyed to two or more persons without a specific statement of the title therein to be held by them, it is taken to have been given to them as tenants in common without right of survivorship. Where this form of tenancy has been retained, however, it has as its chief characteristic the fact that, upon the death of one of the joint tenants, his interest descends to the survivor or survivors and at length to the last survivor. Unlike a tenant by the entirety, however, one joint tenant may dispose of his interest in the joint property or may mortgage, pledge or lease the same; and the privilege of survivorship is subject to such rights of the co-tenant.

As in the case of tenants by the entirety, a joint tenant has an insurable interest in the property forming the subject of the estate.

### HOMESTEADS

A homestead is the dwelling house constituting the family residence, together with the land upon which it is situated and the appurtenances connected therewith. The homestead right is the privilege of holding such property free from the liabilities of all debts of the owner excepting such debts as are by statute made chargeable against it. This right or estate depends entirely on statutory enactment and differs widely in its nature and incidents by reason of the diverse provisions of the statutes of the respective states. As a general rule, however, the husband cannot by will deprive either his surviving spouse or his children<sup>1</sup> of the homestead rights bestowed upon them by the statute. Upon his death the homestead right survives for the benefit of both the widow and the children of the deceased. This right is by its nature limited to real estate.

### SURVIVORSHIP BY WILL OR DEED

A will or a deed may provide that either real estate or personal property shall be owned by one person as soon as another person shall die. This right of future ownership is also defined as a right of survivorship. It may

<sup>1</sup> This is usually limited to minor children.

be of such a nature that the person otherwise entitled to it may lose it if he dies during the lifetime of the other person; or it may be of such a nature that the person entitled to it may sell it, mortgage it or will it. In the latter case, the person obtaining the right by deed, by mortgage, or by will will be entitled to the possession of the property in question upon the death of the person during whose life the right is suspended. It is generally held that a person having a right of survivorship of either kind above described has an insurable interest in the property affected by such right.

## APPENDIX Y

### USE AND OCCUPANCY FORMS

(Per Diem)

For Manufacturing Plants in Steady Operation  
"Straight U. & O."

On the Use and Occupancy of the property described below:

(1) The conditions of this contract are that if the building(s) situate

..... and  
occupied as..... and/or machinery and/or equipment [Insert  
here "and/or raw stock" if liability due to damage to or destruction of raw  
stock is to be included] contained therein, be destroyed or damaged by fire  
occurring during the term of this policy so as to necessitate a total or partial  
suspension of business, this Company shall be liable under this policy for  
the actual loss sustained consisting of:

- I. Net profits on the business which is thereby prevented;
- II. Such fixed charges and expenses as must necessarily continue during  
a total or partial suspension of business, to the extent only that such  
fixed charges and expenses would have been earned had no fire  
occurred;
- III. Such expenses as are necessarily incurred for the purpose of reducing  
the loss under this policy; for not exceeding such length of time,  
commencing with the date of the fire and not limited by the date of expiration  
of this policy, as shall be required with the exercise of due diligence and  
despatch to rebuild, repair or replace such part of said building(s) and  
machinery and equipment..... [Insert here "and raw stock," if  
liability due to damage to or destruction of raw stock is included] as may be  
destroyed or damaged subject to the following conditions and limits, to wit:

(2) **Total Suspension Clause.**—The per diem liability under this policy  
during the time of total suspension of business of all the properties described  
herein shall be limited to the "Actual Loss Sustained," not exceeding 1/300  
of the amount of this policy for each business day of such suspension, except  
that in the case of business being operated on Sundays and/or holidays,  
in which event the said per diem liability shall not exceed 1/365 of the amount  
of this policy for each business day of such suspension, due consideration  
in either case being given to the experience of the business before the fire  
and the probable experience thereafter.

(3) **Partial Suspension Clause.**—The per diem liability under this policy  
during the time of a partial suspension of business shall be limited to the

"Actual Loss Sustained," not exceeding that proportion of the per diem liability that would have been incurred by a total suspension of business which the actual per diem loss sustained, during the time of such partial suspension, bears to the per diem loss which would have been sustained by a total suspension of business, for the same time, of all properties described herein, due consideration being given to the experience of the business before the fire and the probable experience thereafter.

(4) The word "business" wherever used in this contract shall be construed to mean the "production of finished stock"

(5) The term "raw stock" wherever used in this contract shall be construed to mean materials and supplies usual to the insured's business in the state in which the insured received them.

The term "stock in process" wherever used in this contract shall be construed to mean "raw stock" which has undergone any ageing, seasoning, mechanical or other process of manufacture at the above location but which has not become "finished stock."

The term "finished stock" wherever used in this contract shall be construed to mean any stock which in the ordinary course of the insured's business is ready for packing, shipment, or sale.

(6) The word "day," however modified, wherever used in this contract shall be held to cover a period of twenty-four hours

(7) It is a condition of this insurance that the insured shall not be entitled to compensation on account of loss which may be occasioned by any ordinance or law regulating or prohibiting construction or repair of buildings, or by the suspension, lapse or cancellation of any license or lease, or for any other remote loss.

(8) It is a condition of this insurance that as soon as practicable after any loss, the insured shall resume complete or partial operation of the property herein described and shall make use of other property, if obtainable, if by so doing the amount of the loss hereunder will be reduced, and in the event of the loss being so reduced such reduction shall be taken into account in arriving at the amount of the loss hereunder.

(9) It is a condition of this insurance that surplus machinery or duplicate parts thereof, equipment or supplies, and (if this policy covers liability for suspension of business due to damage to or destruction of raw stock) surplus or reserve raw stock, which may be owned, controlled or used by the insured shall, in the event of loss, be used in placing the property in condition for continuing or resuming business.

(10) It is a condition of this insurance

1. That this Company shall in no event be liable for loss resulting from damage to or destruction of finished stock or for the time required to reproduce any finished stock which may be damaged or destroyed; nor, unless liability be specifically assumed by endorsement hereon, for loss resulting from damage to or destruction of stock in process or for the time required to reproduce any stock in process which may be damaged or destroyed;

2. That if liability for suspension of business due to damage to or destruction of raw stock is specifically assumed hereunder such liability shall be limited to that period of time for which the damaged or destroyed raw stock would have made operations possible.

(11) It is a condition of this insurance, if this policy covers liability for suspension of business due to damage to or destruction of building(s), machinery and equipment only, that this Company shall not be liable for any loss due to damage to or destruction of any stock whether raw, in process, or finished.

(12) It is a condition of this insurance that in case the insured and this Company are unable to agree as to the time necessary to rebuild, repair or replace the described property, and/or the value of the subject of this insurance and/or the amount of loss thereon the same shall be determined by appraisal in the manner provided by this policy, the provisions of which policy shall govern in all matters pertaining to this insurance except as herein otherwise provided.

(13) The liability hereunder shall not exceed the amount of insurance by this policy, nor a greater proportion of any loss than the insurance hereunder shall bear to all insurance, whether valid or not, and whether collectable or not, covering in any manner the loss insured against by this policy.

(14) In the event of the insurance hereunder being reduced by payment of loss, such reduction shall apply only to the amount of the policy, the daily limit of liability being unaffected thereby.

(Per Diem)

**For Mercantile or Non-Manufacturing Risks in Steady Operation  
"Straight U. & O."**

On the Use and Occupancy of the property described below:

(1) The conditions of this contract are that if the building(s) situate . . . . .  
 . . . . .  
 . . . . . and  
 occupied as. . . . . and/or machinery and/or equipment [Insert  
 here "and/or stock" if liability due to damage to or destruction of stock is  
 to be included] contained therein, be destroyed or damaged by fire occurring  
 during the term of this policy so as to necessitate a total or partial suspension  
 of business, this Company shall be liable under this policy for the actual  
 loss sustained consisting of:

- I. Net profits on the business which is thereby prevented;
- II. Such fixed charges and expenses as must necessarily continue during a total or partial suspension of business to the extent only that such fixed charges and expenses would have been earned had no fire occurred;
- III. Such expenses as are necessarily incurred for the purpose of reducing the loss under this policy; for not exceeding such length of time,



commencing with the date of the fire and not limited by the date of expiration of this policy, as shall be required with the exercise of due diligence and despatch to rebuild, repair, or replace such part of said building(s) and machinery, and equipment . . . [Insert here "and stock," if liability due to damage to or destruction of stock is included] as may be destroyed or damaged subject to the following conditions and limits, to wit:

(2) **Total Suspension Clause.**—The per diem liability under this policy during the time of total suspension of business of all the properties described herein shall be limited to the "Actual Loss Sustained," not exceeding 1/300 of the amount of this policy for each business day of such suspension, except that in the case of business being operated on Sundays and/or holidays, the said per diem liability shall not exceed 1/365 of the amount of this policy for each business day of suspension, due consideration in either case being given to the experience of the business before the fire and the probable experience thereafter.

(3) **Partial Suspension Clause.**—The per diem liability under this policy during the time of a partial suspension of business shall be limited to the "Actual Loss Sustained," not exceeding that proportion of the per diem liability that would have been incurred by a total suspension of business which the actual per diem loss sustained, during the time of such partial suspension, bears to the per diem loss which would have been sustained by a total suspension of business, for the same time, of all properties described herein, due consideration being given to the experience of the business before the fire and the probable experience thereafter.

(4) The word "business" wherever used in this contract shall be construed to mean: "The carrying on of the business operations usual to the class of the insured."

(5) The word "day," however modified, wherever used in this contract shall be held to cover a period of twenty-four hours.

(6) It is a condition of this insurance that the insured shall not be entitled to compensation on account of loss which may be occasioned by any ordinance or law regulating or prohibiting construction or repair of buildings, or by the suspension, lapse or cancellation of any license or lease, or for any other remote loss.

(7) It is a condition of this insurance that as soon as practicable after any loss, the insured shall resume complete or partial operation of the property herein described and shall make use of other property, if obtainable, if by so doing the amount of loss hereunder will be reduced, and in the event of the loss being so reduced such reduction shall be taken into account in arriving at the amount of the loss hereunder.

(8) It is a condition of this insurance that surplus machinery or duplicate parts thereof, equipment or supplies, and (if this policy covers liability for suspension of business due to damage to or destruction of stock) surplus or reserve stock, which may be owned, controlled or used by the insured shall, in the event of loss, be used in replacing the property in condition for continuing or resuming business.

(9) It is a condition of this insurance, if this policy covers liability for suspension of business due to damage to or destruction of building(s), machinery, and equipment only, that this Company shall not be liable for any loss due to damage to or destruction of stock.

(10) It is a condition of this insurance that in case the insured and this Company are unable to agree as to the time necessary to rebuild, repair or replace the described property, and/or the value of the subject of this insurance, and/or the amount of loss thereon the same shall be determined by appraisal in the manner provided by this policy, the provisions of which policy shall govern in all matters pertaining to this insurance except as herein otherwise provided.

(11) The liability hereunder shall not exceed the amount of insurance by this policy, nor a greater proportion of any loss than the insurance hereunder shall bear to all insurance, whether valid or not, and whether collectable or not, covering in any manner the loss insured against by this policy.

(12) In the event of the insurance hereunder being reduced by payment of loss, such reduction shall apply only to the amount of the policy, the daily limit of liability being unaffected thereby.

(Per Diem)

**For Manufacturing Plants having Seasonal Operations or Fluctuating Earnings**

On the Use and Occupancy of the property described below:

(1) The conditions of this contract are that if the building(s) situate. . .  
 .. and occupied as... ..  
 and/or machinery and/or equipment [Insert here "and/or raw stock" if liability due to damage to or destruction of raw stock is to be included] contained therein, be destroyed or damaged by fire occurring during the term of this policy so as to necessitate a total or partial suspension of business, this Company shall be liable under this policy for the actual loss sustained consisting of:

- I. Net profits on the business which is thereby prevented;
- II. Such fixed charges and expenses as must necessarily continue during a total or partial suspension of business, to the extent only that such fixed charges and expenses would have been earned had no fire occurred;
- III. Such expenses as are necessarily incurred for the purpose of reducing the loss under this policy; for not exceeding such length of time, commencing with the date of the fire and not limited by the date of expiration of this policy, as shall be required with the exercise of due diligence and despatch to rebuild, repair or replace such part of said building(s) and machinery and equipment ..... [Insert here "and raw stock," if liability due to damage to or destruction of raw stock is included] as may be destroyed or damaged subject to the following conditions and limits, to wit:

(2) **Pro Rata Clause.**—The amount for which this policy is issued applies pro rata to each of the following per diem amounts in the proportion that the amount of this policy bears to the aggregate of said per diem amounts multiplied by the respective number of days during which each applies.

(3) **Total Suspension Clause.**—The per diem liability under this policy during the time of total suspension of business of all the properties described herein shall be limited to the "Actual Loss Sustained," not exceeding the amounts designated for each day of the respective periods defined in the following table and during no other time, due consideration being given to the experience of the business before the fire and the probable experience thereafter.

(4)

For each business day

(Month-Day)	(Month-Day)	
from.....	to the following	(inclusive) \$ .....
from... ..	to the following	(inclusive) \$ . . . . .
from .. .....	to the following	(inclusive) \$ .....
from... ..	to the following	(inclusive) \$ . . . . .
from.....	to the following	(inclusive) \$.. . . .
from.....	to the following..	(inclusive) \$ .. . . .
from .....	to the following	(inclusive) \$ . . . . .
from.....	to the following	(inclusive) \$ . . . . .
from.....	to the following	(inclusive) \$ . . . . .
from.....	to the following	(inclusive) \$ .....
from.....	to the following	(inclusive) \$ . . . . .
from.....	to the following.	(inclusive) \$ . . . . .

(5) **Partial Suspension Clause.**—The per diem liability under this policy during the time of a partial suspension of business shall be limited to the "Actual Loss Sustained," not exceeding that proportion of the per diem liability that would have been incurred by a total suspension of business which the actual per diem loss sustained, during the time of such partial suspension, bears to the per diem loss which would have been sustained by a total suspension of business, for the same time, of all properties described herein, due consideration being given to the experience of the business before the fire and the probable experience thereafter.

(6) The word "business" wherever used in this contract shall be construed to mean the "production of finished stock."

(7) The term "raw stock" wherever used in this contract shall be construed to mean materials and supplies usual to the insured's business in the state in which the insured receives them.

The term "stock in process" wherever used in this contract shall be construed to mean "raw stock" which has undergone any ageing, seasoning, mechanical or other process of manufacture at the above location but which has not become "finished stock."

The term "finished stock" wherever used in this contract shall be construed to mean any stock which in the ordinary course of the insured's business is ready for packing, shipment or sale.

(8) The word "day," however modified, wherever used in this contract shall be held to cover a period of twenty-four hours.

(9) It is a condition of this insurance that the insured shall not be entitled to compensation on account of loss which may be occasioned by any ordinance or law regulating or prohibiting construction or repair of buildings, or by the suspension, lapse or cancellation of any license or lease, or for any other remote loss.

(10) It is a condition of this insurance that as soon as practicable after any loss, the insured shall resume complete or partial operation of the property herein described and shall make use of other property, if obtainable, if by so doing the amount of the loss hereunder will be reduced, and in the event of the loss being so reduced such reduction shall be taken into account in arriving at the amount of the loss hereunder.

(11) It is a condition of this insurance that surplus machinery or duplicate parts thereof, equipment or supplies, and (if this policy covers liability for suspension of business due to damage to or destruction of raw stock) surplus or reserve raw stock, which may be owned, controlled or used by the insured shall, in the event of loss, be used in placing the property in condition for continuing or resuming business.

(12) It is a condition of this insurance

1. That this Company shall in no event be liable for loss resulting from damage to or destruction of finished stock or for the time required to reproduce any finished stock which may be damaged or destroyed; nor, unless liability be specifically assumed by endorsement hereon, for loss resulting from damage to or destruction of stock in process or for the time required to reproduce any stock in process which may be damaged or destroyed;
2. That if liability for suspension of business due to damage to or destruction of raw stock is specifically assumed hereunder such liability shall be limited to that period of time for which the damaged or destroyed raw stock would have made operations possible.

(13) It is a condition of this insurance, if this policy covers liability for suspension of business due to damage to or destruction of building(s), machinery, and equipment only, that this Company shall not be liable for any loss due to damage to or destruction of any stock whether raw, in process, or finished.

(14) It is a condition of this insurance that in case the insured and this Company are unable to agree as to the time necessary to rebuild, repair or replace the described property, and/or the value of the subject of this insurance and/or the amount of loss thereon the same shall be determined by appraisal in the manner provided by this policy, the provisions of which policy shall govern in all matters pertaining to this insurance except as herein otherwise provided.

(15) The liability hereunder shall not exceed the amount of insurance by this policy, nor a greater proportion of any loss than the insurance hereunder shall bear to all insurance, whether valid or not, and whether collectable or not, covering in any manner the loss insured against by this policy.

(16) In the event of the insurance hereunder being reduced by payment of loss, such reduction shall apply only to the amount of the policy, the daily limits of liability being unaffected thereby.

#### Coinurance Form for Manufacturing Risks

§ .....On the Use and Occupancy of the property described as follows:

.....  
 occupied by the insured as.....  
 situate.....  
 City.....  
 Town of ..... State of . . .

The following are special conditions and provisions of this contract:

- A If the premises and/or building(s) and/or structures and/or machinery and equipment.....(insert "and/or raw stock" if liability due to damage to or destruction of raw stock is to be included; otherwise policy shall not so cover) contained therein, be destroyed or damaged by fire occurring during the term of this policy so as to necessitate a total or partial suspension of business this company shall be liable under this policy for the actual loss sustained, for not exceeding such length of time as would be required with the exercise of due diligence and dispatch, to rebuild, repair or replace such part of the property described in said policy as may be destroyed or damaged (commencing with the date of the fire and not limited by the date of expiration of this policy), consisting of:

*Item I.* Net profit on the business which is thereby prevented;

*Item II.* Such fixed charges and expenses as must necessarily continue during a total or partial suspension of business (excluding expenses specified under *Item III*) to the extent to which such charges and expenses would have been earned had no fire occurred;

*Item III.* Such other expenses, if any, as listed below as must necessarily continue during a total or partial suspension of business for not exceeding the period of time, as specified herein, immediately following the date of the fire, and not exceeding the stipulated percentage(s), during the period of interruption, of the normal amount of such expenses nor the extent to which they would have been earned had no fire occurred, to wit:

## The Period of

.....per cent of	.....	for	.. working days
..... per cent of.	.....	for	.. working days
.....per cent of	..	for	.. working days
.....per cent of...	.....	for	.. working days
..... per cent of..	.....	for	.. working days
... ..per cent of	..	for	.. working days
.....per cent of...	.....	for	.. working days

the expenses listed under Item III shall not, on an annual basis, exceed 25 per cent of all fixed charges and expenses, and no period of time shall, under *Item III*, be less than three months;

*Item IV.* Such expenses as are necessarily incurred for the purpose of reducing any loss under this policy, not exceeding, however, the amount by which the loss is thereby reduced.

*B* In determining the amount of net profit and charges and expenses which would have been earned had no fire occurred, whether for the purpose of ascertaining the amount of loss sustained or for the application of the coinsurance clause, due consideration shall be given to the experience of the business before the fire and the probable experience thereafter.

*C* **Coinsurance Clause.**—In consideration of the rate and form under which this policy is written it is expressly stipulated and made a condition of this contract that, in the event of loss, this company shall be liable for no greater proportion thereof than the amount hereby insured bears to 100 per cent of the sum of

(a) The net profit, fixed charges and expenses described in *Items I* and *II* which would normally have been earned (had no fire occurred) during the period of twelve (12) months immediately following the fire; plus

(b) the sum of the expenses described in *Item III*.

In the event that the total claim for any loss is both less than ten thousand dollars (\$10,000) and less than 2 per cent of the total amount of insurance, no special audit or appraisal of the total Use and Occupancy values shall be required.

*D* **Limit of Liability.**—The liability hereunder shall not exceed the amount of insurance by this policy, nor a greater proportion of any loss than the insurance hereunder shall bear to all insurance, whether valid or not, and whether collectible or not, covering in any manner the loss insured against by this policy.

*E* **Consequential Losses.**—This Company shall not be liable for any loss which may be occasioned by any ordinance or law regulating construction or repair of buildings or by the suspension, lapse or cancellation of any lease or license, contract or order, or for any other remote loss.

- F Resumption of Operation and Use of Other Property.**—So soon as practicable after any loss, the insured shall resume complete or partial operation of the property herein described and shall make use of other property, if obtainable, if by so doing the amount of loss hereunder will be reduced, and in the event of the loss being so reduced such reduction shall be taken into account in arriving at the amount of the loss hereunder.
- G Surplus Equipment and Supplies.**—Surplus machinery or duplicate parts thereof, equipment or supplies, and (if this policy covers liability for suspension of manufacturing due to damage to or destruction of raw stock) surplus or reserve raw stock, which may be owned, controlled or used by the insured, shall, in the event of loss, be used in placing the property in condition for continuing or resuming business.
- H Definition of "Raw Stock," "Stock in Process," and "Finished Stock."**—The term "raw stock" wherever used in this contract shall be construed to mean materials and supplies usual to the insured's business in the state in which the insured receives them.
- The term, "stock in process," wherever used in this contract shall be construed to mean "raw stock" which has undergone any ageing, seasoning, mechanical or other process of manufacture at the above location but which has not become "finished stock."
- The term, "finished stock," wherever used in this contract shall be construed to mean any stock which in the ordinary course of the insured's business is ready for packing, shipment, or sale.
- I Exclusion of Finished Stock.**—This Company shall in no event be liable for loss resulting from damage to or destruction of finished stock or for the time required to reproduce any finished stock which may be damaged or destroyed
- J Raw Stock—Stock in Process.**—If liability for suspension of manufacturing, due to damage to, or loss of, raw stock is specifically assumed hereunder,
- (1) Such liability shall be limited to that period of time for which the damaged or destroyed raw stock would have made operations possible, but no liability shall exist on this account, unless or until actual curtailment of production shall have occurred through the insured's inability to procure suitable materials to take the place of those damaged or destroyed; and
  - (2) This policy subject to all its terms, conditions and/or limits and without increase in amount, shall include such additional time, if any, not exceeding thirty working days as may be required with the exercise of due diligence and dispatch to replace any stock in process damaged or destroyed and/or to restore the same to the state of manufacture in which it stood at the time of the fire. Provided, however, that if there be other insurance covering in any manner the loss insured against by this policy, this company shall be liable only pro rata with such other insurance irrespective of whether such other insurance includes liability

for additional time, if any, required for replacement and/or restoration of stock in process; and

- (3) If this policy covers liability for suspension of business due to damage to or destruction of premises and/or building(s) and/or structures, and/or machinery and equipment only, this company shall not be liable for any loss due to damage to or destruction of any stock whether raw, in process, or finished.

**K Definition of "Day" and "Normal."**—The word "day," however modified, wherever used in this contract shall be construed to mean twenty-four consecutive hours.

The word "normal," however modified, wherever used in this contract shall be construed to mean the condition that would have existed had no fire occurred.

**L Lightning Clause.**—Except as provided in the Electrical Exemption Clause below, this policy shall cover Use and Occupancy loss caused by lightning (meaning thereby the commonly accepted use of the term lightning, and in no case to include loss or damage by cyclone, tornado, or windstorm) not exceeding the sum insured, nor the interest of the insured in the property, subject to the terms and conditions of this form and the policy to which it is attached. Provided, however, if there shall be any other Use and Occupancy insurance on said property, this company shall be liable only pro rata with such other insurance for any use and occupancy loss by lightning, whether such other insurance be against loss by lightning or not.

**M Electrical Exemption Clause.**—This company shall not be liable for any Use and Occupancy loss resulting from any electrical injury, disturbance or damage to dynamos, excitors, lamps, switches, motors or other electrical appliances, or devices whether from artificial or natural causes, unless fire ensues, and then only for such Use and Occupancy loss as may be caused by such ensuing fire; this limitation to be operative notwithstanding any provision to the contrary in the Lightning Clause attached.

**N Appraisal Clause and General Policy Conditions and Provisions.**—In case the insured and this Company are unable to agree as to the value of the subject of this insurance, and/or the amount of loss thereon, and/or the time necessary to rebuild, repair, or replace the premises and/or buildings and/or structures and/or machinery and equipment, and/or raw stock if liability due to damage to or destruction of raw stock be included, the same shall be determined by appraisal in the manner provided by this policy. The conditions and provisions of this policy shall govern in all matters pertaining to this insurance except as herein otherwise stipulated.

Attached to and forming part of Policy No. . . . .

(NOTE.—Usual clauses may be added as permitted and required as per rules.)



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